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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

[Two Sessions]

WHEN:	February 6, 1996 at 9:00 am and February 21, 1996 at 9:00 am
WHERE:	Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS:	202–523–4538

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Separate Parts In This Issue

Reader Aids

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

New Feature in the Reader Aids!

Beginning with the issue of December 4, 1995, a new listing will appear each day in the Reader Aids section of the Federal Register called ''Reminders''. The Reminders will have two sections: ''Rules Going Into Effect Today'' and ''Comments Due Next Week''. Rules Going Into Effect Today will remind readers about Rules documents published in the past which go into effect ''today''. Comments Due Next Week will remind readers about impending closing dates for comments on Proposed Rules documents published in past issues. Only those documents published in the Rules and Proposed Rules sections of the Federal Register will be eligible for inclusion in the Reminders.

The Reminders feature is intended as a reader aid only. Neither inclusion nor exclusion in the listing has any legal significance.

The Office of the Federal Register has been compiling data for the Reminders since the issue of November 1, 1995. No documents published prior to November 1, 1995 will be listed in Reminders.

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Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 61, No. 22
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ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Chapter III

Removal of CFR Chapter

Effective February 1, 1996, the Administrative Conference of the United States (ACUS) is terminated by Public Law 104–52, 104 Stat. 480 (see 5 U.S.C. note preceding 591). Therefore, the Office of the Federal Register is removing ACUS regulations from the Code of Federal Regulations pursuant to its authority to maintain an orderly system of codification under 44 U.S.C. 1510 and 1 CFR part 8.

Accordingly, 1 CFR is amended by removing parts 301 through 326 and vacating Chapter III.

BILLING CODE 1505–1D–M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 530, 531, 534, 550, 575, 581, 582, and 630

RIN: 3206–AH09

Pay Under the General Schedule; Termination of Interim Geographic Adjustments

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement the termination of interim geographic adjustments (IGA's) payable to certain Federal employees. The IGA's were terminated by the President because the locality-based comparability payments he authorized for January 1996 exceed 8 percent in both of the two remaining IGA areas (New York-Northern New Jersey-Long Island, NY–NJ–CT–PA, and Los Angeles-Riverside-Orange County, CA).

DATES: The regulations are effective on January 1, 1996, and are applicable on the first day of the first pay period beginning on or after January 1, 1996. Comments must be received on or before April 1, 1996.

ADDRESSES: Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415 (FAX: (202) 606–0824).

FOR FURTHER INFORMATION CONTACT: Jeanne D. Jacobson, (202) 606–2858 or FAX: (202) 606–0824.

SUPPLEMENTARY INFORMATION: On August 31, 1995, the President transmitted to Congress a plan for fixing alternative levels of locality-based comparability payments affecting General Schedule (GS) employees in January 1996 under the authority of 5 U.S.C. 5304a. The alternative plan provides an 8.05–percent comparability payment for the New York-Northern New Jersey-Long Island, NY–NJ–CT–PA, locality pay area and an 8.15-percent comparability payment for the Los Angeles-Riverside-Orange County, CA, locality pay area. These locality payments will exceed the 8-percent interim geographic adjustment (IGA) authorized for the New York-Northern New Jersey-Long Island, NY–NJ–CT–PA, and Los Angeles-Riverside-Orange County, CA, interim geographic adjustment areas. Consequently, the President issued Executive Order 12984 of December 28, 1995, which includes no IGA pay schedules. This action has the effect of terminating the IGA's previously established for the New York and Los Angeles Consolidated Metropolitan Statistical Areas (CMSA's). These interim regulations implement the termination of IGA's.

Section 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101–509) authorized the President to establish IGA's of up to 8 percent of basic pay for GS employees in geographic areas with significant disparities between Federal and non-Federal pay. On December 12, 1990, the President issued Executive Order 12736, designating the (1) New York-Northern New Jersey-Long Island, NY–NJ–CT CMSA (changed to the New York-Northern New Jersey-Long Island, NY–NJ–CT–PA CMSA as of December 31, 1992); (2) Los Angeles-Anaheim-Riverside, CA CMSA (changed to the Los-Angeles-Riverside-Orange County, CA CMSA as of December 31, 1992); and (3) San Francisco-Oakland-San Jose, CA CMSA as geographic areas in which IGA's should be paid. Payment of IGA's in these geographic areas began in January 1991.

Interim geographic adjustments were intended to be an interim measure pending the implementation of locality-based comparability payments in January 1994. Because locality pay is to be phased in over several years, section 302(d)(2)(A) of FEPCA provides that employees receiving IGA's may not have their pay reduced as a result of the implementation of locality pay. Therefore, the regulations governing IGA's under 5 CFR part 531, subpart A, provided that an employee's IGA entitlement terminates when his or her locality rate of pay exceeds his or her IGA rate of pay.

In January 1995, the San Francisco-Oakland-San Jose, CA CMSA was terminated as an IGA area because the locality payment for that area exceeded 8 percent. (See Executive Order 12944 of December 29, 1994.) Since locality pay will exceed 8 percent in the New York-Northern New Jersey-Long Island, NY–NJ–CT–PA, and Los Angeles-Riverside-Orange County, CA, IGA areas in January 1996, the President has terminated IGA's for these areas, as well.

As a result of the termination of IGA's, OPM is removing 5 CFR part 531, subpart A, ''Interim Geographic Adjustments.'' However, because some employees in the former IGA areas will continue to receive ''continued rates of pay'' (a form of saved pay established in January 1994 for employees who previously received an IGA on top of a worldwide or nationwide special rate), we are retaining—in a new subpart G of part 531—several provisions previously found in subpart A concerning the administration of continued rates of pay.

These interim regulations also make conforming changes in other parts of the regulations to reflect the termination of IGA's. For example, the interim regulations revise the definition of *rate of basic pay* in § 550.103 relating to premium pay by removing the reference to ''interim geographic adjustment'' and

adding ''continued rate adjustment'' to the list of payments included in an employee's *rate of basic pay* for premium pay purposes.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to make this amendment effective in less than 30 days. These interim regulations reflect the termination of IGA's effective on the first day of the first pay period beginning on or after January 1, 1996, as required by the President's Executive Order 12984 of December 28, 1995.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Parts 530, 531, 534, 550, 575, 581, 582, and 630

Administrative practice and procedure, Alimony, Child support, Claims, Government employees, Hospitals, Law enforcement officers, Reporting and recordkeeping requirements, Students, and Wages.

Office of Personnel Management,

James B. King,

Director.

Accordingly, OPM is proposing to amend parts 530, 531, 534, 550, 575, 581, and 582, and 630 of title 5, Code of Federal Regulations, as follows:

PART 530—PAY RATES AND SYSTEMS (GENERAL)

1. The authority citation for part 530 is revised to read as follows:

Authority: 5 U.S.C. 5305 and 5307; E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316;

Subpart B also issued under secs. 302(c) and 404(c) of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), 104 Stat. 1462 and 1466, respectively;

Subpart C also issued under sec. 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103–89), 107 Stat. 981.

2. In § 530.202, paragraph (2) in the definition of *aggregate compensation* is revised to read as follows:

§ 530.202 Definitions.

* * * * *

Aggregate compensation means the total of—

(2) Locality-based comparability payments under 5 U.S.C. 5304; continued rate adjustments under subpart G of part 531 of this chapter; or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509);

* * * * *

PART 531—PAY UNDER THE GENERAL SCHEDULE

3. The authority citation for part 531 is revised to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Pub. L. 103–89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316;

Subpart B also issued under 5 U.S.C. 5303(g), 5333, 5334(a), and 7701(b)(2);

Subpart C also issued under 5 U.S.C. 5304, 5305, and 5553; sections 302 and 404 of FEPCA, Pub. L. 101–509, 104 Stat. 1462 and 1466; and section 3(7) of Pub. L. 102–378, 106 Stat. 1356;

Subpart D also issued under 5 U.S.C. 5335(g) and 7701(b)(2);

Subpart E also issued under 5 U.S.C. 5336;

Subpart F also issued under 5 U.S.C. 5304, 5305(g)(1), and 5553; and E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682;

Subpart G also issued under 5 U.S.C. 5304, 5305, and 5553; section 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Pub. L. 101–509, 104 Stat. 1462; and E.O. 12786, 56 FR 67453, 3 CFR, 1991 Comp., p. 376.

4. Subpart A consisting of §§ 531.101–531.106 is removed and reserved.

5. In § 531.301, paragraph (1) in the definition of *scheduled annual rate of pay* is revised to read as follows:

§ 531.301 Definitons.

* * * * *

Scheduled annual rate of pay means—

(1) The General Schedule rate of basic pay for the employee's grade and step (or relative position in the rate range), including a special rate for law enforcement officers under section 403 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101–509), but exclusive of a special salary rate established under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA), a *continued rate of pay* under subpart G of this part, a *special law enforcement adjusted rate of pay* under this subpart (including a rate continued under § 531.307), a *locality rate of pay* under subpart F of this part, or additional pay of any kind;

* * * * *

6. In § 531.304, paragraphs (a)(2) and (k) are revised to read as follows:

§ 531.304 Administration of special law enforcement adjusted rates of pay.

(a) * * *

(2) A *continued rate of pay* under subpart G of this part;

* * * * *

(k) When an employee's *special law enforcement adjusted rate of pay* under this subpart is greater than any applicable *locality rate of pay* under subpart F of this part, a *continued rate of pay* under subpart G of this part, or special salary rate under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA), the payment of the rate resulting from the comparison required by paragraph (a) of this section shall be deemed to have reduced the special pay adjustment for law enforcement officers payable under section 404 of FEPCA, as authorized by section 404(a) of FEPCA.

7. Section 531.306 is revised to read as follows:

§ 531.306 Effect of special pay adjustments for law enforcement officers on retention payments under FBI demonstration project.

As required by section 406 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), a retention payment payable to an employee of the New York Field Division of the Federal Bureau of Investigation under section 601(a)(2) of Public Law 100–453, as amended, shall be reduced by the amount of any special any adjustment for law enforcement officers payable to that employee under this subpart. For the purpose of applying this section, the amount of the special pay adjustment for law enforcement officers shall be determined by subtracting the employee's scheduled annual rate of pay from his or her special law enforcement adjusted rate of pay.

8. In § 531.602, paragraph (1) in the definition of *scheduled annual rate of pay* is revised to read as follows:

§ 531.602 Definitions.

* * * * *

Scheduled annual rate of pay means—

(1) The General Schedule rate of basic pay for the employee's grade and step (or relative position in the rate range), including a special rate for law enforcement officers under section 403 of the Federal Employees Pay Comparability Act of 1990 (FEPCA)

(Pub. L. 101–509, 104 Stat. 1465), but exclusive of a special salary rate established under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA), a *continued rate of pay* under subpart G of this part, a *special law enforcement adjusted rate of pay* under subpart C of this part (including a rate continued under § 531.307), a *locality rate of pay* under this subpart, or additional pay of any kind;

* * * * *

9. In § 531.606, paragraph (a)(2) is revised to read as follows:

§ 531.606 Administration of locality rates of pay.

(a) * * *

(2) A *continued rate of pay* under subpart G of this part;

* * * * *

10. A new subpart G is added to read as follows:

Subpart G—Continued Rates of Pay

Sec.

Subpart G—Continued Rates of Pay

§ 531.701 Definitions.

In this subpart:

Continued rate of pay means a rate of pay first established in January 1994 for an employee who previously received an interim geographic adjustment on top of a worldwide or nationwide special rate authorized under 5 U.S.C. 5305.

Employee means an employee in a position in whom subchapter III of chapter 53 of title 5, United States Code applies, whose official duty station is located in an interim geographic adjustment area and who is receiving a continued rate of pay.

General Schedule means the basic pay schedule established under 5 U.S.C. 5332.

Interim geographic adjustment area means one of the following Consolidated Metropolitan Statistical Areas (CMSA's), as defined by the Office of Management and Budget (OMB), that was an interim geographic adjustment area when continued rates of pay first became applicable in January 1994:

(1) New York-Northern New Jersey-Long Island, NY–NJ–CT–PA;

(2) Los Angeles-Riverside-Orange County, CA; or

(3) San Francisco-Oakland-San Jose, CA.

Official duty station means the duty station for an employee's position of record as indicated on his or her most recent notification of personnel action.

§ 531.702 Computation of hourly, daily, weekly, and biweekly continued rates of pay.

When it is necessary to convert a continued rate of pay from an annual rate to an hourly, daily, weekly, or biweekly rate, the following methods apply:

(a) To derive an hourly rate, divided the continued rate by 2,087 and round to the nearest cent, counting one-half cent and over as a whole cent;

(b) To derive a daily rate, multiply the hourly rate by the number of daily hours of service required by the employee's basic daily tour of duty;

(c) To derive a weekly or biweekly rate, multiply the hourly rate by 40 or 80, as the case may be.

§ 531.703 Administration of continued rates of pay.

(a) An employee shall receive the greatest of—

(1) His or her rate of basic pay, including any applicable special salary rate established under 5 U.S.C. 5305 or similar provision of law or special rate for law enforcement officers under section 403 of FEPCA;

(2) A *continued rate of pay* under this subpart;

(3) A *special law enforcement officer adjusted rate of pay* under subpart C of this part, where applicable, including a *special law enforcement adjusted rate of pay* continued under § 531.307; or

(4) A *locality rate of pay* under subpart F of this part, where applicable.

(b) A continued rate of pay is considered basic pay for the same purposes as described in § 531.606(b), as applicable.

(c) A continued rate of pay is paid only for those hours for which an employee is in a pay status, except that it shall be included in a lump-sum payment for annual leave under 5 U.S.C. 5551 or 5552.

(d) A continued rate of pay is included in an employee's ''total remuneration,'' as defined in § 551.511(b) of this chapter, and ''straight time rate of pay,'' as defined in § 551.512(b) of this chapter, for the purpose of computations under the Fair Labor Standards Act of 1938, as amended.

(e) At the time of an adjustment in pay under 5 U.S.C. 5303, a continued rate of pay shall be increased by the lesser of—

(1) The dollar amount of the adjustment (including a zero adjustment) made under 5 U.S.C. 5303 in the General Schedule rate of basic pay for the employee's grade and step (or relative position in the rate range); or

(2) The dollar amount of the adjustment (including a zero adjustment) in the special salary rate applicable to the employee as a result of the annual review of special rates required by § 530.304 of this chapter.

(f) An increase in a continued rate of pay under paragraph (e) of this section is not an equivalent increase in pay within the meaning of section 5335 of title 5, United States Code.

(g) A continued rate of pay terminates on the date—

(1) An employee's official duty station is no longer located in one of the interim geographic adjustment areas;

(2) An employee is no longer in a position covered by this subpart;

(3) An employee separates from Federal service;

(4) An employee's special salary rate under 5 U.S.C. 5305 or similar provision of law (other than section 403 of FEPCA) exceeds his or her continued rate of pay;

(5) An employee's *special law enforcement adjusted rate of pay* under subpart C of this part exceeds his or her continued rate of pay;

(6) An employee's *locality rate of pay* under subpart F of this part exceeds his or her continued rate of pay;

(7) An employee is reduced in grade; or

(8) An employee is no longer in a position covered by a nationwide or worldwide special rate authorization (or, in the event of the conversion of a nationwide or worldwide special rate authorization to a local special rate authorization, a position covered by the new local special rate authorization).

(h) Termination of a continued rate of pay under paragraph (g) of this section is not an adverse action for the purpose of subpart D of part 752 of this chapter.

(i) An employee's entitlement to a continued rate of pay is not affected by a temporary promotion or a temporary reassignment.

§ 531.704 Effect of continued rates of pay on retention payments under FBI demonstration project.

As required by section 406 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), a retention payment payable to an employee of the New York Field Division of the Federal Bureau of Investigation under section 601(a)(2) of Public Law 100–453, as amended, shall

be reduced by the amount of any continued rate adjustment payable to that employee under this subpart. For the purpose of applying this section, the amount of any continued rate adjustment shall be determined by subtracting the employee's scheduled annual rate of pay (as defined in § 531.602 of this part from his or her continued rate of pay.

§ 531.705 Reports.

The Office of Personnel Management may require agencies to report pertinent information concerning the administration of payments under this subpart.

PART 534—PAY UNDER OTHER SYSTEMS

11. The authority citation for part 534 continues to read as follows:

Authority: 5 U.S.C. 1104, 5307, 5351, 5352, 5353, 5376, 5383, 5384, 5385, 5541, and 5550a.

12. In § 534.401, paragraph (b)(3) is revised to read as follows:

§ 534.401 Definitions and setting individual basic pay.

* * * * *

(b) * * *

(3) For the purpose of paragraph (b)(2) of this section, *rate of basic pay* means the rate of pay fixed by law or administrative action for the position held by an employee or, in the case of an employee entitled to grade or pay retention, the employee's retained rate of pay, before any deductions and exclusive of additional pay of any other kind, such as locality-based comparability payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509).

* * * * *

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart A—Premium Pay

13. The authority citation for subpart A of part 550 continues to read as follows:

Authority: 5 U.S.C. 5304 note, 5305 note, 5541(2)(iv), 5548 and 6101(c); E.O. 12748, 3 CFR, 1991 Comp., p. 316.

14. In § 550.103, the definition of *rate of basic pay* is revised to read as follows:

§ 550.103 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee, including any applicable special pay adjustment for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), locality-based comparability payment under 5 U.S.C. 5304, or continued rate adjustment under subpart G of part 531 of this chapter, before any deductions and exclusive of additional pay of any other kind.

* * * * *

15. In § 550.105, paragraph (a)(1) is revised to read as follows:

§ 550.105 Biweekly maximum earnings limitation.

(a) * * *

(1) A locality-based comparability payment under 5 U.S.C. 5304; and

* * * * *

16. In § 550.106, paragraph (c)(1) is revised to read as follows:

§ 550.106 Annual maximum earnings limitation for work in connection with an emergency.

* * * * *

(c) * * *

(a) A locality-based comparability payment under 5 U.S.C. 5304; and

* * * * *

17. In § 550.107, paragraph (a) is revised to read as follows:

§ 550.107 Special maximum earnings limitation for law enforcement officers.

* * * * *

(a) 150 percent of the minimum rate for GS–15, including a locality-based comparability payment under 5 U.S.C. 5304 or special law enforcement adjustment under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509) and any special salary rate established under 5 U.S.C. 5305, rounded to the nearest whole cent, counting one-half cent and over as a whole cent; or

* * * * *

18. In § 550.111, the first sentence in paragraph (d)(2) is revised to read as follows:

§ 550.111 Authorization of overtime pay.

* * * * *

(d) * * *

(2) Performed by an employee, when the employee's basic pay exceeds the minimum rate for GS–10 (including any applicable special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law) or when the employee is engaged in professional or technical, engineering or scientific activities. * * *

19. In § 550.113, paragraph (a) is revised to read as follows:

§ 550.113 Computation of overtime pay.

(a) For each employee whose rate of basic pay does not exceed the minimum rate for GS–10 (including any applicable special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law), the overtime hourly rate is 1½ times his or her hourly rate of basic pay.

* * * * *

20. In § 550.114, paragraph (c) is revised to read as follows:

§ 550.114 Compensatory time off.

* * * * *

(c) The head of an agency may provide that an employee whose rate of basic pay exceeds the maximum rate for GS–10 (including any applicable special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; a locality-based comparability payment under 5 U.S.C. 5304; and any applicable special rate of pay under 5 U.S.C. 5305 or similar provision of law) shall be compensated for irregular or occasional overtime work with an equivalent amount of compensatory time off from the employee's tour of duty instead of payment under § 550.113 of this part.

* * * * *

21. In § 550.141, the second sentence is revised to read as follows:

§ 550.141 Authorization of premium pay on an annual basis.

* * * Premium pay under this section is determined as an appropriate percentage, not in excess of 25 percent, of that part of the employee's rate of basic pay which does not exceed the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under 5 U.S.C. 5304 or special rate of pay under 5 U.S.C. 5305 or similar provision of law).

22. In § 550.144, paragraph (a), introductory text, is revised to read as follows:

§ 550.144 Rates of premium pay payable under § 550.141.

(a) An agency may pay the premium pay on an annual basis referred to in § 550.141 to an employee who meets the requirements of that section, at one of the following percentages of that part of the employee's rate of basic pay which does not exceed the minimum rate of basic pay for GS–10 (including any applicable locality-based comparability payment under 5 U.S.C. 5304 or special rate of pay under 5 U.S.C. 5305 or similar provision of law):

* * * * *

23. In § 550.151, the second sentence is revised to read as follows:

§ 550.151 Authorization of premium pay on an annual basis.

* * * Premium pay under this section is determined as an appropriate percentage, not less than 10 percent nor more than 25 percent, of the employee's rate of basic pay (as defined in § 550.103).

24. In § 550.154, paragraph (a) is revised to read as follows:

§ 550.154 Rates of premium pay payable under § 550.151.

(a) An agency may pay the premium pay on an annual basis referred to in § 550.151 to an employee who meets the requirements of that section, at one of the following percentages of the employee's rate of basic pay (as defined in § 550.103):

* * * * *

Subpart B—Advances in Pay

25. The authority citation for subpart B of part 550 is revised to read as follows:

Authority: 5 U.S.C. 5524a, 5545a(h)(2)(B); sections 302 and 404 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101–509), 104 Stat. 1462 and 1466, respectively; E.O. 12748, 3 CFR, 1992 Comp., p. 316.

26. In § 550.202, the definition of *rate of basic pay* is revised to read as follows:

§ 550.202 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee, including, as applicable, annual premium pay under 5 U.S.C. 5545(c), availability pay under 5 U.S.C. 5545a, night differential for prevailing rate employees under 5 U.S.C. 5343(f), and any special pay adjustment for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509) or locality-based comparability payment under 5 U.S.C. 5304, but not including additional pay of any kind.

Subpart G—Severance Pay

27. The authority citation for subpart G of part 550 is revised to read as follows:

Authority: 5 U.S.C. 5595; E.O. 11257, 3 CFR, 1964–1965 Comp., p. 357.

28. In § 550.703, the definition of *rate of basic pay* is revised to read as follows:

§ 550.703 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee, including, as applicable, annual premium pay for standby duty under 5 U.S.C. 5545(c)(1), availability pay under 5 U.S.C. 5545a, night differential for prevailing rate employees under 5 U.S.C. 5343(f), and any continued rate adjustment under subpart G of part 531 of this chapter, special pay adjustment for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), or locality-based comparability payment under 5 U.S.C. 5304, but not including additional pay of any kind.

* * * * *

PART 575—RECRUITMENT AND RELOCATION BONUSES; RETENTION ALLOWANCES; SUPERVISORY DIFFERENTIALS

29. The authority citation for part 575 is revised to read as follows:

Authority: 5 U.S.C. 1104(a)(2), 5753, 5754, and 5755; sec. 302 and 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), 104 Stat. 1462 and 1466, respectively; E.O. 12748, 3 CFR, 1992 Comp., p. 316.

30. In § 575.103, the definition of *rate of basic pay* is revised to read as follows:

§ 575.103 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position to which the employee is or will be newly appointed before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509).

* * * * *

31. In § 575.203, the definition of *rate of basic pay* is revised to read as follows:

§ 575.203 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position to which the employee is being relocated or, in the case of an employee who is entitled to grade or pay retention, the employee's retained rate of pay, before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509).

* * * * *

32. In § 575.303, the definition of *rate of basic pay* is revised to read as follows:

§ 575.303 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative action for the position held by an employee or, in the case of an employee who is entitled to grade or pay retention, the employee's retained rate of pay, before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509).

33. In § 575.402, paragraph (b) is revised to read as follows:

§ 575.402 Delegation of authority.

* * * * *

(b) A supervisory differential may not be paid on the basis of supervising a civilian employee whose rate of basic pay exceeds the maximum rate of basic pay established for grade GS–15 on the pay schedule applicable to the GS supervisor, including a schedule for any applicable locality rate of pay under 5 U.S.C. 5304, a special law enforcement adjusted rate of pay under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), or any applicable special rate of pay under 5 U.S.C. 5305.

34. In § 575.403, the definition of *rate of basic pay* is revised to read as follows:

§ 575.403 Definitions.

* * * * *

Rate of basic pay means the rate of pay fixed by law or administrative

action for the position held by an employee before deductions and exclusive of additional pay of any kind, such as locality-based comparability payments under 5 U.S.C. 5304 or special pay adjustments for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509).

* * * * *

35. In § 575.405, paragraphs (c)(2) and (d)(2) are revised to read as follows:

§ 575.405 Calculation and payment of supervisory differential.

* * * * *

(c) * * *

(2) A locality-based comparability payment under 5 U.S.C. 5304, a continued rate adjustment under subpart G of part 531 of this chapter, or a special pay adjustment for law enforcement officers under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509);

* * * * *

(d) * * *

(2) A locality-based comparability payment under 5 U.S.C. 5304, a special law enforcement adjusted rate of pay under section 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), or another locality-based payment under similar authority, excluding a continued rate adjustment under subpart G of part 531 of this chapter;

* * * * *

PART 581—PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

36. The authority citation for part 581 continues to read as follows:

Authority: 15 U.S.C. 1673; 42 U.S.C. 659, 661–662; E.O. 12105, 43 FR 59465, 3 CFR, 1979 Comp., p. 262; E.O. 12953, 60 FR 11013.

37. In § 581.103, paragraph (a)(24) is revised to read as follows:

§ 581.103 Moneys which are subject to garnishment.

(a) * * *

(24) Locality-based comparability payments or continued rate adjustments;

* * * * *

PART 582—COMMERCIAL GARNISHMENT OF FEDERAL EMPLOYEES' PAY

38. The authority citation for part 582 continues to read as follows:

Authority: 5 U.S.C. 5520a; 15 U.S.C. 1673; E.O. 12897.

39. In § 582.102, paragraph (5) is revised to read as follows:

§ 582.102 Definitions.

In this part—* * *

(5) In conformance with 5 U.S.C. 5520a, *pay* means basic pay; premium pay paid under chapter 55, subchapter V, of title 5 of the United States Code; any payment received under chapter 55, subchapters VI, VII, and VIII, of title 5 of the United States Code; severance pay and back pay under chapter 55, subchapter IX, of title 5 of the United States Code; sick pay, and any other paid leave; incentive pay; locality pay (including special pay adjustments for law enforcement officers and locality-based comparability payments); back pay awards; and any other compensation paid or payable for personal services, whether such compensation is denominated as pay, wages, salary, lump-sum leave payments, commission, bonus, award, or otherwise; but does not include amounts received under any Federal program for compensation for work injuries; awards for making suggestions, reimbursement for expenses incurred by an individual in connection with employment, or allowances in lieu of thereof as determined by the employing agency.

PART 630—ABSENCE AND LEAVE

40. The authority citation for part 630 continues to read as follows:

Authority: 5 U.S.C. 6311; § 630.301 also issued under Pub. L. 103–356, 108 Stat. 3410; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6403(d)(3), Pub. L. 102–484, 106 Stat. 2722, and Pub. L. 103–337, 108 Stat. 2663; subpart D also issued under Pub. L. 103–329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100–566, 102 Stat. 2834, and Pub. L. 103–103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L. 100–566, and Pub. L. 103–103; subpart K also issued under Pub. L. 102–25, 105 Stat. 92; and subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103–3, 107 Stat. 23.

41. In § 630.1204, paragraph (d)(1) is revised to read as follows:

§ 630.1204 Intermittent leave or reduced leave schedule.

* * * * *

(d) * * *

(1) An equivalent grade or pay level, including any applicable locality-based comparability payment under 5 U.S.C. 5304; special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; continued rate of pay under subpart G of part 531 of this chapter; or special salary rate under 5 U.S.C. 5305 or similar provision of law;

* * * * *

42. In § 630.1208, paragraph (b)(2) is revised to read as follows:

§ 630.1208 Protection of employment and benefits.

* * * * *

(b) * * *

(2) An equivalent grade or pay level, including any applicable locality-based comparability payment under 5 U.S.C. 5304; special rate of pay for law enforcement officers or special pay adjustment for law enforcement officers under section 403 or 404 of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), respectively; continued rate of pay under subpart G of part 531 of this chapter; or special salary rate under 5 U.S.C. 5305 or similar provision of law;

* * * * *

[FR Doc. 96–1835 Filed 1–31–96; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905 and 944

[Docket No. FV95–905–3FIR]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; and Import Regulations (Grapefruit); Relaxation of the Minimum Size Requirement for Red Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule without change, the provisions of an interim final rule revising requirements under the Florida citrus marketing order and grapefruit import regulations. This rule relaxes the minimum size requirement for red seedless grapefruit to 3 5/16 inches in diameter (size 56). The Citrus Administrative Committee (Committee), the agency that locally administers the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida, unanimously recommended this change. This change will enable handlers and importers to continue to ship size 56 red seedless grapefruit for

the entire 1995–96 season. As required under section 8e of the Agricultural Marketing Agreement Act of 1937, this final rule also changes the citrus import regulation so that it conforms with the requirements established under the Florida citrus marketing order.

EFFECTIVE DATE: March 4, 1996.

FOR FURTHER INFORMATION CONTACT: William G. Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone: 813–299–4770; or Caroline C. Thorpe, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522–S, P.O. Box 96456, Washington, D.C. 20090–6456; telephone: (202) 720–8139.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 905 (7 CFR Part 905), as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the order. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This final rule is also issued under section 8e of the Act, which provides that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities. Section 8e also provides that whenever two or more marketing orders regulate the same commodity produced in different areas of the United States, the Secretary shall determine which area the imported commodity is in most direct competition with and apply regulations based on that area to the imported commodity. The Secretary has determined that grapefruit imported into the United States are in most direct competition with grapefruit grown in Florida regulated under Marketing Order No. 905, and has found that the minimum grade and size requirements for imported grapefruit should be the same as those established for grapefruit under Marketing Order No. 905.

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under Section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 100 handlers of Florida citrus who are subject to regulation under the marketing order, approximately 12,000 producers of citrus in the regulated area, and about 25 grapefruit importers. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of these handlers, producers, and importers may be classified as small entities.

An interim final rule was issued on November 20, 1995, and published in the Federal Register (60 FR 58497, November 28, 1995). That rule provided a 30-day comment period which ended December 28, 1995. No comments were received.

The order for Florida citrus provides for the establishment of minimum grade and size requirements. The minimum grade and size requirements are designed to provide fresh markets with fruit of acceptable quality, thereby maintaining consumer confidence for fresh Florida citrus. This helps create buyer confidence and contributes to stable marketing conditions. This is in the interest of producers, packers, and consumers, and is designed to increase returns to Florida citrus growers.

This final rule finalizes changes to regulations implemented through an interim final rule that relaxed the minimum size requirement for red seedless grapefruit allowing for the continued shipment of size 56 grapefruit.

The Committee met September 14, 1995, and unanimously recommended this action.

This rule finalizes a relaxation of the minimum size from size 48 (3$^{9}/_{16}$ inches diameter) to size 56 (3$^{5}/_{16}$ inches diameter) for the period November 13, 1995, through November 10, 1996.

Section 905.52, in part, authorizes the Committee to recommend minimum grade and size regulations to the Secretary. Section 905.306 (7 CFR 905.306) specifies minimum grade and size requirements for different varieties of fresh Florida grapefruit. Such requirements for domestic shipments are specified in Section 905.306 in Table I of paragraph (a), and for export shipments in Table II of paragraph (b). Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under Section 944.106 (7 CFR 944.106), as reinstated on July 26, 1993 (58 FR 39428, July 23, 1993). Export requirements are not changed by this rule.

In making its recommendation, the Committee considered estimated supply and current shipments. The Committee reports that it expects that fresh market demand will be sufficient to permit the shipment of size 56 red seedless grapefruit grown in Florida during the entire 1995–96 season. The Committee believes that markets have been developed for size 56 and that they should continue to supply those markets.

Finalizing this size relaxation will enable Florida grapefruit shippers to continue shipping size 56 red seedless grapefruit to the domestic market. This rule will have a beneficial impact on producers and handlers, since it will

permit Florida grapefruit handlers to continue to make available those sizes of fruit needed to meet consumer needs. This is consistent with current and anticipated demand in those markets for the 1995–96 season, and will provide for the maximization of shipments to fresh market channels.

There are several exemptions to these regulations provided under the order. Handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day, and up to 2 standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale. Fruit shipped for animal feed is also exempt under specific conditions. Fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements.

Section 8e of the Act provides that when certain domestically produced commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, and maturity requirements. Since this rule will finalize the relaxation of the minimum size requirement under the domestic handling regulations, a corresponding change to the import regulations must also be considered.

Minimum grade and size requirements for grapefruit imported into the United States are currently in effect under Section 944.106 (7 CFR 944.106), as reinstated on July 26, 1993 (58 FR 39428, July 23, 1993). This rule finalizes the relaxation of the minimum size requirements for imported red seedless grapefruit to 3–5⁄16 inches in diameter (size 56) for the period November 13, 1995, through November 10, 1996, to reflect the relaxation being made under the order for grapefruit grown in Florida. The minimum grade and size requirements for Florida grapefruit are specified in Section 905.306 (7 CFR 905.306) under Marketing Order No. 905.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this final rule.

Based on these considerations, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the Committee's recommendation, and other available information, it is found that finalizing this interim final rule without change, as published in the Federal Register (60 FR 58497, November 28, 1995) as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth above, 7 CFR parts 905 and 944 are amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Accordingly, the interim final rule amending 7 CFR part 905 which was published at 60 FR 58497 on November 28, 1995, is adopted as a final rule without change.

PART 944—FRUITS; IMPORT REGULATIONS

Accordingly, the interim final amending 7 CFR part 944 which was published at 60 FR 58497 on November 28, 1995, is adopted as a final rule without change.

Dated: January 25, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–2066 Filed 1–31–96; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 945

[FV95–945–2FIR]

Irish Potatoes Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Modification of the Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule which changed pack requirements and established marking requirements for Idaho-Eastern Oregon potatoes. These changes are expected to improve the marketing of such potatoes and increase returns to producers. These changes were recommended by the Idaho-Eastern Oregon Potato Committee (Committee), the agency responsible for local administration of the marketing order program. The rule also included several conforming changes to recognize that the marketing order regulates shipments of potatoes within, as well as outside, the production area.

EFFECTIVE DATE: This final rule becomes effective March 4, 1996.

FOR FURTHER INFORMATION CONTACT: Gary D. Olson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724 or FAX (503) 326–7440; or Valerie L. Emmer, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, D.C. 20090–6456; telephone: (202) 205–2829, or FAX (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 945 (7 CFR part 945), as amended, hereinafter referred to as the ''order,'' regulating the handling of Irish potatoes grown in certain designated counties in Idaho, and Malheur County, Oregon. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of Idaho-Eastern Oregon potatoes that are subject to regulation under the order and approximately 1,600 producers in the production area. Small agricultural service firms, which include handlers of Idaho-Eastern Oregon potatoes, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. A majority of potato handlers regulated under the order may be classified as small entities. A majority of producers may also be classified as small entities.

This rule finalizes an interim final rule which amended the handling regulation in § 945.341 by specifying that: (1) All cartons (except when used as master containers) be conspicuously marked as to size of the potatoes in the carton; (2) for all varieties, when 50-pound containers are marked with a count, size, or similar designation, the potatoes contained therein must meet the count, average count, and weight ranges established within the handling regulation; and (3) all Idaho-Eastern Oregon potatoes packed in cartons of any size (except when cartons are used as master containers) shall be U.S. No. 1 grade or better. The interim final rule also included several conforming changes to recognize that the order regulates shipments of potatoes within, as well as outside, the production area.

These changes were recommended by the Committee at its August 9, 1995, meeting. The Committee's recommendations are authorized pursuant to §§ 945.51 and 945.52 of the order. This rule will continue the improvement in the marketing of Idaho-Eastern Oregon potatoes and improve returns to producers.

A recent order amendment (60 FR 29724; June 5, 1995), added authority to § 945.52 to require accurate and uniform marking and labeling of containers in which Idaho-Eastern Oregon potatoes are shipped. With this authority in the order, the Committee recommended requiring that all cartons shall be conspicuously marked as to potato size; i.e., marked so that the potato size is noticeable on the carton. The Committee recommended this requirement to reduce confusion in the marketplace as to the size of the potatoes in cartons. While most cartons already are marked as to size, the Committee reported that there have been many instances when product size in unmarked cartons was misrepresented through the marketing chain; (e.g., 100-count size potatoes in 50-pound cartons being represented as 90-count size). This type of misrepresentation created market confusion, damaged buyer acceptance, and depressed prices. The marking requirement should continue in effect to prevent such problems.

In addition, the interim final rule changed the pack requirements in § 945.341(c). For several decades, the handling regulation specified that when long varieties of potatoes in 50-pound containers are marked with a count, size or similar designation, the potatoes contained therein must meet the count, average count and weight ranges established within the handling regulation. This benefitted buyers and sellers by reducing market confusion and misrepresentation related to the marking of count and weight ranges on 50-pound containers. In recent years, there has been an increase in the number of plantings of round varieties grown in the Idaho-Eastern Oregon production area. Therefore, the Committee recommended that this pack requirement, which the industry has found to be beneficial for long varieties, be extended to all varieties. The extension of the pack requirement to all varieties should be continued to further the marketing of potatoes from the production area.

The second aspect of the change in pack requirements recommended by the Committee was the establishment of a requirement that all Idaho-Eastern Oregon potatoes packed in cartons of any size (except when cartons are used as master containers) shall be U.S. No. 1 grade or better. Previously, the handling regulation required this only of potatoes packed in 50-pound cartons (except when used as master containers). Some buyers had indicated that a smaller carton size is more desirable than the 50-pound carton. Those buyers indicated that they need a smaller carton that takes up less storage space and is easier to lift and handle. However, those buyers still want to be provided with the same quality of potatoes; i.e., U.S. No. 1 grade or better. Previously, the grade of potatoes packed in other than 50-pound cartons had to be U.S. No. 2 grade or better. This finalization of change in the handling regulation reflects the industry's intention to provide a high quality product, regardless of carton size used. The change should remain in effect so that goal can be met.

Another order amendment revised § 945.9 to broaden the scope of the order to authorize regulating shipments of potatoes within, as well as outside, the production area. Conforming changes were made in § 945.341(d)(3) regarding inspection and certification procedures so these procedures cover all shipments of potatoes, not only shipments made outside the production area.

The changes to the handling regulation were published in the Federal Register as an interim final rule on November 24, 1995 (60 FR 57904). That rule provided that interested persons could file comments through December 26, 1995. No comments were received.

Based on available information, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

After consideration of all relevant material presented, including the Committee's recommendation and other available information, it is found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 945

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 945 is amended as follows:

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

Accordingly, the interim final rule amending 7 CFR part 945 which was published at 60 FR 57904 on November 24, 1995, is adopted as a final rule without change.

Dated: January 24, 1996.

Sharon Bomer Lauritsen

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–2065 Filed 1–31–96; 8:45 am]

BILLING CODE 3410–02–P

Commodity Credit Corporation

7 CFR Part 1485

Agreements for the Development of Foreign Markets for Agricultural Commodities

AGENCY: Commodity Credit Corporation (CCC).

ACTION: Interim final rule.

SUMMARY: This interim final rule amends regulations implementing the Market Promotion Program (MPP) authorized by Section 203 of the Agricultural Trade Act of 1978. This rule revises procedural and documentation requirements pertaining to program participants' contracts with third parties. The rule also corrects an erroneous cross-reference.

DATES: This interim rule is effective on February 1, 1996. Comments must be received in writing by February 15, 1996 to be assured of consideration.

ADDRESSES: Sharon L. McClure, Director, Marketing Operations Staff, Foreign Agricultural Service, United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC 20250–1042.

FOR FURTHER INFORMATION CONTACT: Sharon L. McClure, (202) 720–5521.

SUPPLEMENTARY INFORMATION: This interim final rule is issued in conformance with Executive Order 12866. It has been determined to be significant for the purposes of E.O. 12866 and, therefore, has been reviewed by the Office of Mangement and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to the interim final rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of rulemaking with respect to the subject matter of this rule.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12778

This rule has been reviewed under the Executive Order 12778, Civil Justice Reform. The rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The rule would not have retroactive effect. The rule does not require that administrative remedies be exhausted before suit may be filed.

Background

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome and are easy for the public to understand, use or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations.

On February 1, 1995, Commodity Credit Corporation (''CCC'') published final rules governing the MPP. These new rules were applicable beginning with a participant's 1995 marketing year. Following publication, CCC participated with interested parties in five information sessions designed to familiarize participants with the new regulations and offer participants an additional opportunity to identify any problem areas. At these sessions, participants expressed concern that new regulatory requirements applicable to a participant's contracts with third parties imposed an undue administrative burden and, because of the relatively late announcement of 1995 MPP allocations, could significantly delay effective implementation of some participants' 1995 programs. Specifically, participants expressed concern regarding the requirements for a price or cost analysis for each contract, 7 CFR 1485.23(c)(2)(v), and for certain procedural requirements in the solicitation of bids, 7 CFR 1485.23(c)(2)(vi).

CCC agrees that these requirements may unnecessarily increase costs to participants and may delay implementation of many activities and thereby be detrimental to the operation of an efficient market development program. Consequently, this rule will eliminate the current requirements in 7 CFR 1485.23(c)(2)(vi) regarding specific procurement procedures. In addition, the regulation regarding price or cost analysis is revised to indicate that CCC is not requiring a specific type of analysis or formal procedure for such analysis. Rather, the regulation makes it clear that various types of informal analysis should suffice, *e.g.,* a simple comparison of price quotes with present market conditions. In this way, CCC requires the participant to act in a reasonable manner when entering into obligations to be reimbursed with project funds, without imposing any undue administrative burden on the participant.

This rule also revises an erroneous cross-reference presently in § 1485.16(c)(24).

Information Collection Requirements

The amendment set forth in this interim final rule does not impose any new reporting or record keeping requirements. The information collection requirements for participating in the MPP were approved for use by the Office of Management and Budget under OMB control number 00551–0027.

List of Subjects in 7 CFR Part 1485

Agricultural commodities, Exports.

PART 1485—AGREEMENTS FOR THE DEVELOPMENT OF FOREIGN MARKETS FOR AGRICULTURAL COMMODITIES

1. The authority citation for Part 1485 continues to read:

Authority: 7 U.S.C. 5623, 5662–5664 and sec. 1302, Pub. L. 103–66, 107 Stat. 330.

Subpart B—Market Promotion Program

2. Section 1485.16(c)(24) is revised to read as follows:

§ 1485.16 Reimbursement rules.

* * * * *

(c) * * *

(24) Generic commodity promotions (see § 1486.16(f));

* * * * *

3. Section 1485.23 is amended by revising paragraph (c)(2)(v) to read as follows and by deleting paragraph (c)(2)(vi):

§ 1485.23 Miscellaneous provisions.

* * * * *

(c) * * *

(2) * * *

(v) Perform some form of price or cost analysis such as a comparison of price quotations to market prices or other price indicia, to determine the reasonableness of the offered prices.

* * * * *

Signed at Washington, DC, this 25th day of January 1996.

August Schumacher, Jr.,

Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 96–1206 Filed 1–31–96; 8:45 am]

BILLING CODE 3410–10–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 104, 105, 109, 110 and 114

[Notice 1996–3]

Document Filing

AGENCY: Federal Election Commission.

ACTION: Final rule; Technical amendments.

SUMMARY: On December 28, 1995, the President signed a bill that amended the Federal Election Campaign Act of 1971 (''FECA'' or ''Act'') to improve the electoral process, *inter alia*, by requiring candidates, and the authorized committees of the candidates, to the United States House of Representatives (''House'') to file campaign finance reports with the Federal Election Commission. The Commission today is publishing technical amendments to conform its regulations to the statute.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Ms. Teresa A. Hennessy, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The FECA governs, *inter alia*, the filing of campaign finance reports by candidates for Federal office. 2 U.S.C. 432(g). As amended in 1979, the FECA required that all designations, statements, and reports required to be filed under the Act by a candidate, authorized committee(s) of the candidate, or principal campaign committee of the candidate for the House be filed with the Clerk of the House as custodian for the Commission. The FECA specified that a House candidate includes a candidate for the Office of Representative in, or Delegate or Resident Commissioner to, the Congress. Federal Election Campaign Act Amendments of 1979, Public Law No. 96–187, section 102, 93 Stat. 1339, 1346, codified at 2 U.S.C. § 432(g)(1). At 11 CFR 105.1, the Commission implemented this requirement and provided that all other reports by committees that support only candidates to the House be filed with the Clerk of the House.

On December 28, 1995, Public Law No. 104–79, 109 Stat. 791 (1995) amended the FECA to require that these reports instead be filed with the Federal Election Commission. See Section 3. The new law made no changes to the filing requirements for candidates to the United States Senate. The law became effective with the first reports required to be filed after December 31, 1995. However, since the law was enacted shortly before this date, under agreement with the Clerk, authorized committees of candidates for the House will file year-end reports for 1995 with the Clerk. The Clerk will date stamp and forward these reports to the Commission. Thereafter, the candidates and committees formerly filing with the Clerk will file all documents required to be filed under FECA with the Commission.

Therefore, the Commission is publishing this Notice to make necessary technical and conforming amendments to its regulations. The Notice amends 11 CFR 105.1 to conform to the statute and includes conforming amendments to several provisions that refer to the regulation: 11 CFR 100.5(e)(3)(i), 104.3(e)(5), 104.4(c)(3), 104.5(f), 104.14(c), 104.15(a), 105.4, 105.5, 109.2(a), 110.6(c)(1) (i) and (ii), and 114.6 (d)(3)(i) and (d)(5). Please note that the sale or use restriction on information in campaign finance reports, set forth at 11 CFR 104.15(a), still would apply to all reports, including those previously filed with the Clerk.

Because the amendments are merely technical, they are exempt from the notice and comment requirements of the Administrative Procedure Act. *See* 5 U.S.C.553(b)(B). They are also exempt from the legislative review provisions of the FECA. *See* 2 U.S.C. § 438(d). These exemptions allow the amendments to be made effective immediately upon publication in the Federal Register. As a result, these amendments are made effective on February 1, 1996.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

I certify that the attached final rule will not have a significant economic impact on a substantial number of small entities. The basis of this certification is that the rule is necessary to conform to the Act and that the rule changes only the location of filing reports. Therefore, no significant economic impact is caused by the final rule.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 104

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 105

Campaign funds, Political candidates, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 109

Elections, Reporting and recordkeeping requirements.

11 CFR Part 110

Campaign funds, Political committees and parties.

11 CFR Part 114

Business and industry, Elections, Labor.

For the reasons set out in the preamble, subchapter A, chapter I, title 11 of the Code of Federal Regulations is amended as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for Part 100 continues to read as follows:

Authority: 2 U.S.C. 431, 438(a)(8).

§ 100.5(e)(3)(i) [Amended]

2. Section 100.5(e)(3)(i) is amended by removing '', Clerk of the House''.

PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

3. The authority citation for Part 104 continues to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8), 438(b).

§ 104.3(e)(5) [Amended]

4. Section 104.3(e)(5) is amended by removing all references to ''Clerk of the House of Representatives,'' and by removing the comma after ''Secretary of the Senate'' in the first and third sentences.

§ 104.4(c)(3) [Amended]

5. Section 104.4(c)(3) is amended by revising all references to ''Clerk of the House'' to read ''Federal Election Commission''.

§ 104.5(f) [Amended]

6. Section 104.5(f) is amended by removing ''the Clerk of the House,''.

§ 104.14(c) [Amended]

7. Section 104.14(c) is amended by removing '', the Clerk of the House,''.

§ 104.15(a) [Amended]

8. Section 104.15(a) is amended by revising ''with the Commission, Clerk of the House, Secretary of the Senate, or any Secretary of State or other equivalent State officer'' to read ''under the Act''.

PART 105—DOCUMENT FILING (2 U.S.C. 432(g))

9. The authority citation for Part 105 continues to read as follows:

Authority: 2 U.S.C. 432(g), 438(a)(8).

10. Section 105.1 is revised to read as follows:

§ 105.1 Place of filing; House candidates and their authorized committees (2 U.S.C. 432(g)(1)).

All designations, statements, reports, and notices, as well as any modification(s) or amendment(s) thereto, required to be filed under 11 CFR parts 101, 102, and 104 by a candidate for nomination or election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress, or by his or her authorized committee(s), shall be filed in original form with, and received by, the Federal Election Commission.

§ 105.4 [Amended]

11. Section 105.4 is amended by removing ''105.1,'' and by removing the comma after ''105.2''.

12. Section 105.5 is revised to read as follows:

§ 105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Secretary of the Senate to the Commission (2 U.S.C. 432(g)(3)).

(a) Either a microfilmed copy or photocopy of all original designations, statements, reports, modifications or amendments required to be filed pursuant to 11 CFR 105.2 shall be transmitted by the Secretary of the Senate to the Commission as soon as possible, but in any case no later than two (2) working days after receiving such designations, statements, reports, modifications, or amendments.

(b) The Secretary of the Senate shall then forward to the Commission a microfilm copy and a photocopy of each designation, statement, and report, or any modification or amendment thereto, filed with the Secretary pursuant to 11 CFR 105.2.

(c) The Secretary of the Senate shall place a time and date stamp on each original designation, statement, report, modification or amendment received.

PART 109—INDEPENDENT EXPENDITURES (2 U.S.C. 431(17), 434(c))

13. The authority citation for Part 109 continues to read as follows:

Authority: 2 U.S.C. 431(17), 434(c), 438(a)(8), 441d.

§ 109.2(a) [Amended]

14. Section 109.2(a) is amended by removing '', the Clerk of the House''.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

15. The authority citation for Part 110 continues to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g and 441h.

§ 110.6(c)(1) (i) and (ii) [Amended]

16. Section 110.6 is amended by removing '', the Clerk of the House of Representatives,'' from paragraph (c)(1)(i) and by removing '', Clerk'' from paragraph (c)(1)(ii).

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

17. The authority citation for Part 114 continues to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 437d(a)(8),438(a)(8), and 441b.

§ 114.6(d)(3)(i) and (d)(5) [Amended]

18. Section 114.6 is amended by removing '', the Clerk of the House'' from paragraph (d)(3)(i) and by removing '', the Clerk of the House,'' from paragraph (d)(5).

Dated:January 26, 1996.

Lee Ann Elliott,

Chairman, Federal Election Commission.

[FR Doc. 96–1972 Filed 1–31–96; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–276–AD; Amendment 39–9496; AD 96–03–01]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This action requires inspections of the lower engine mount to determine if the tangential link upper bolt and nut are oriented properly, and if the tangential link upper bolt nut is torqued within certain limits. This action also requires replacement of the bolt and nut with serviceable parts, if necessary, and requires certain follow-on actions for airplanes on which the upper bolt is missing. Terminating action is also provided by this AD. This amendment is prompted by reports of migration of bolts completely from the tangential link of the aft engine mount, a condition which would reduce the capability of the retention system for the engine. The actions specified in this AD are intended to prevent separation of the engine from the airplane due to migration of the tangential link upper bolt.

DATES: Effective February 16, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 16, 1996.

Comments for inclusion in the Rules Docket must be received on or before April 1, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 95–NM–276–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tammy L. Dow, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington; telephone (206) 227–2771; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: Recently, the FAA received reports indicating that the upper bolt and nut of the tangential link of the aft engine on Model 747 airplanes were found to have migrated out of proper position. In three cases, the bolt had completely backed out of the hole. Analysis conducted by the manufacturer demonstrated that the nuts used to secure the bolts may not provide adequate run-on torque. Additionally, there was evidence that lubricants were used on the threads of some of the bolts. These conditions can allow the nut to rotate and disengage from the bolt. With no nut or other retention for the bolt, normal vibration causes the bolt to loosen and migrate out of the tangential link. Loss of the bolt would reduce the capability of the engine retention system, and could result in cracking of the engine turbine exhaust case due to the increased load. This condition, if not corrected, could

result in separation of the engine from the airplane.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–71A2277, dated November 29, 1995, which describes procedures for repetitive inspections of the lower engine mount to verify if the tangential link upper bolt nut is properly oriented and to verify that the tangential link upper bolt nut is torqued within certain limits. Additionally, the service bulletin describes procedures for the replacement of the bolt and nut with serviceable parts, if necessary. The alert service bulletin also describes certain other follow-on procedures for airplanes on which the tangential link upper bolt is missing. Those procedures involve a visual inspection to detect damage and deformation of the lower engine mount lugs that attach the affected safety link; magnetic particle inspections to detect cracking of the lower engine mount lugs; detail visual inspections to detect cracking, bulging, discoloration, and corrosion of the engine mounts and adjacent structures; and replacement of the lower engine mount fittings with serviceable parts, if necessary; installation of new safety links, bolts, and nuts; and installation of the tangential link upper bolt.

The FAA also has reviewed and approved Boeing Service Bulletin 747–71–2206, Revision 1, dated November 12, 1987 (as revised by Boeing 747 Notice of Status Change No. 747–71–2206 NSC 1, dated December 4, 1987, and Boeing 747 Notice of Status Change No. 747–71–2206 NSC 2, dated March 17, 1988). This service information describes procedures for replacement of the safety links with modified safety links. Accomplishment of this replacement eliminates the need for repetitive inspections of lower engine mount bolt and nut.

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 747 series airplanes of the same type design, this AD is being issued to prevent possible separation of the engine from the airplane due to consequences associated with the complete migration of the tangential link upper bolt. This action requires repetitive visual inspections to verify if the tangential link upper bolt is correctly oriented; inspections to determine if the tangential link upper bolt nut is torqued within certain limits; and replacement of the bolt and nut with serviceable parts, if necessary. This action also requires certain other follow-on procedures for airplanes on which the tangential link upper bolt is missing. Additionally, this AD provides for replacement of the safety links as optional terminating action for the repetitive inspection requirements. The actions are required to be accomplished in accordance with the service bulletins described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

This is considered to be interim action. Once final action is identified, the FAA may consider further rulemaking.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–NM–276–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–03–01 Boeing: Amendment 39–9496. Docket 95–NM–276–AD.

Applicability: Model 747 series airplanes, as listed in Boeing Alert Service Bulletin 747–71A2277, dated November 29, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) of this AD to request approval from the FAA. This approval may address either no action, if the

current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the engine from the airplane, accomplish the following:

(a) Within 90 days after the effective date of this AD, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD in accordance with Boeing Alert Service Bulletin 747–71A2277, dated November 29, 1995.

(1) Perform a visual inspection to ensure that installation of the tangential link upper bolt nut is on the forward side of the engine mount fitting.

(i) If the tangential link upper bolt nut is installed on the forward side of the engine mount fitting, repeat the visual inspection at intervals not to exceed 18 months.

(ii) If the tangential link upper bolt is not installed on the forward side of the engine mount fitting, prior to further flight, remove the nut, bolt, and washers and reinstall the nut, bolt, and washers in accordance with the alert service bulletin. Thereafter, repeat the visual inspection at intervals not to exceed 18 months.

(iii) If the tangential link upper bolt is missing from the engine mount fitting, prior to further flight, perform the various follow-on actions in accordance with the alert service bulletin. (The follow-on actions include visual inspections, magnetic particle inspections, replacement of the lower engine mount fitting with a serviceable part, if necessary; installation of new safety links, bolts, and nuts; and installation of a new tangential link upper bolt.) Thereafter, repeat the visual inspection at intervals not to exceed 18 months.

(2) Perform an inspection to verify that the torque value of the tangential link upper bolt (on both sides of the mount) is within the limits specified in the alert service bulletin.

(i) If the torque value of the tangential link upper bolt nut is within the limits specified in the alert service bulletin, repeat the inspection (verification) at intervals not to exceed 18 months.

(ii) If the torque value of the tangential link upper bolt nut is outside the limits specified in the alert service bulletin, prior to further flight, perform a visual inspection of the tangential link upper bolt and washer for any damage or discrepancy, in accordance with the alert service bulletin.

(A) If no damage or discrepancy of the tangential link upper bolt and washers is found, prior to further flight, replace the bolt nut with a new or serviceable part in accordance with the alert service bulletin. Thereafter, repeat the inspection (verification) specified in paragraph (a)(2) of this AD at intervals not to exceed 18 months.

(B) If any damage or discrepancy of the tangential link upper bolt and washers is found, prior to further flight, replace the damaged or discrepant part with a new or serviceable part, and replace the bolt nut with a new or serviceable part, in accordance with the alert service bulletin. Thereafter, repeat the inspection (verification) specified in paragraph (a)(2) of this AD at intervals not to exceed 18 months.

(b) Replacement of the safety links with modified safety links in accordance with Boeing Service Bulletin 747–71–2206, dated April 16, 1987; or Boeing Service Bulletin 747–71–2206, Revision 1, dated November 12, 1987, as revised by Boeing Notice of Status Change No. 747–71–2206 NSC 1, dated December 4, 1987, and Boeing Notice of Status Change No. 747–71–2206 NSC 2, dated March 17, 1988; constitutes terminating action for the repetitive inspection requirements of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspections, replacement, and follow-on actions shall be done in accordance with Boeing Alert Service Bulletin 747–71A2277, dated November 29, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on February 16, 1996.

Issued in Renton, Washington, on January 22, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–1572 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–02–AD; Amendment 39–9497; AD 96–03–02]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes. This action requires inspections to detect cracking and corrosion of the aft trunnion of the outer cylinder of the main landing gear (MLG) and various follow-on actions. This action provides for termination of the inspections by repairing the outer cylinder and installing new aft trunnion bushings. This amendment is prompted by a report of the collapse of the right MLG due to fracture of the aft trunnion outer cylinder. The actions specified in this AD are intended to prevent the collapse of the MLG due to stress corrosion cracking of the aft trunnion of the outer cylinder.

DATES: Effective February 16, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 16, 1996.

Comments for inclusion in the Rules Docket must be received on or before April 1, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–02–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2783; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA recently received a report of the collapse of the right main landing gear (MLG) of a Boeing Model 767–300ER airplane while the airplane was taxiing in a low speed right-hand turn. Investigation revealed that the cause of the collapse of the MLG was attributed to the fracture of the aft trunnion outer cylinder due to stress corrosion cracking. The cracking initiated at the crossbolt hole, which is approximately

five inches from the aft trunnion bushing flange. This condition, if not corrected, could result in the collapse of the MLG due to ductile fracture of the aft trunnion of the outer cylinder.

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995. The alert service bulletin places affected airplanes into three categories:

- Category 1 airplanes have outer cylinders of the MLG that have accumulated 2½ years or less since the cylinder was new or overhauled.
- Category 2 airplanes have outer cylinders of the MLG that have accumulated between 2½ years and 4 years since new or overhauled.
- Category 3 airplanes have outer cylinders of the MLG that have accumulated 4 years or more since new or overhauled.

This categorization reflects the time-related phenomenon of corrosion; i.e., the risk of developing corrosion (or stress corrosion cracking) increases with the length of time that an outer cylinder has been in service. Therefore, Category 3 comprises airplanes that are generally at the greatest risk of experiencing stress corrosion cracking .

The alert service bulletin describes the procedures necessary for performing various visual, eddy current, and ultrasonic inspections; and when appropriate, for performing chemical spot testing of the aft trunnion of the outer cylinder of the MLG (hereinafter referred to as the ''aft trunnion''). It also includes the following actions for all three categories of airplanes:

1. replacement of the outer cylinder, if cracking is found;
2. replacement of the aft trunnion bushing and crossbolt bushings; or repeat the visual, eddy current, and ultrasonic inspections of the immediate area in which corrosion is found in the aft trunnion;
3. application of plating and finish to the outer cylinder, if the finish is found to be damaged or missing;
4. functional testing of the lock link actuator;
5. repetitive visual inspections, or termination of the inspections by repairing the outer cylinder and installing flangeless aft trunnion bushings and new crossbolt bushings;
6. repetitive 360-degree close visual inspection of the aft trunnion, including the crossbolt area;
7. application of corrosion inhibiting compound on the aft trunnion; and
8. eventual repair of the outer cylinder and replacement of the existing aft trunnion and crossbolt bushings with new bushings, which terminates the inspections specified in the alert service bulletin.

The alert service bulletin refers to Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, which describes procedures for repair of the outer cylinder and replacement of the existing bushings of the aft trunnion and crossbolt of the MLG with new bushings. The FAA has also reviewed and approved this alert service bulletin.

Since an unsafe condition has been identified that is likely to exist or develop on other Model 767 series airplanes of the same type design, this AD is being issued to prevent the collapse of the MLG due to stress corrosion cracking of the aft trunnion of the outer cylinder. This AD requires various inspections to detect cracking and corrosion of the aft trunnion and various follow-on actions. The actions are required to be accomplished in accordance with Boeing Alert Service Bulletin 767–32A0151, described previously.

The compliance times for accomplishing these inspections are dependent upon the age of the outer cylinders of the MLG. Category 3 airplanes, which have the oldest cylinders, are to be inspected within 30 days (the alert service bulletin recommends inspecting these airplanes within 60 days). Category 2 airplanes are to be inspected within 90 days (the alert service bulletin recommends inspecting these airplanes within 120 days). Category 1 airplanes, which have the youngest cylinders, are to be inspected within 150 days (the alert service bulletin recommends inspecting these airplanes within 180 days).

In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the manufacturer's recommendation as to an appropriate compliance time, the availability of required parts, and the practical aspects of performing the inspections. The FAA points out that the varying compliance times allow the manufacturer sufficient time to produce all the eddy current probes, ultrasonic transducers, and non-destructive inspection (NDI) reference standards that operators need to accomplish the inspections. Further, the FAA took into account the compliance times recommended by the manufacturer, as well as the number of days required for the rulemaking process; in consideration of these factors, the FAA finds that the compliance times required by this AD will fall approximately at the same time as those recommended by the manufacturer.

Operators should note that, although Boeing Alert Service Bulletin 767–32A0151 specifies eventual repair of the outer cylinder and replacement of the existing bushings with new bushings, this AD does not require such replacement. The FAA is considering further rulemaking action to require eventual replacement of the bushings. However, the planned compliance time for the replacement is sufficiently long so that prior notice and time for public comment will be practicable.

This AD does provide operators with the option of terminating the requirement for the repetitive inspections by replacing the bushings with new bushings in accordance with Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995. Accomplishment of this bushing replacement also terminates the requirements of the following AD's:

- AD 95–19–10, amendment 39–9372 (60 FR 47689, September 14, 1995), and
- AD 95–20–51, amendment 39–9398 (60 FR 53109, October 12, 1995). [The comment period for AD 95–20–51 was extended by an AD action that was issued on November 28, 1995 (60 FR 62321, December 6, 1995.)]

Operators should also note that Boeing Alert Service Bulletin 767–32A0148 refers to Component Maintenance Manual (CMM) 32–11–40, which, in turn, provides instructions for plugging the aft trunnion lubrication fitting with a rivet. This AD, however, does not require plugging this lube fitting to terminate the requirements of this AD, AD 95–19–10, or AD 95–20–51.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and

suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–02–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

96–03–02 Boeing: Amendment 39–9497. Docket 96–NM–02–AD.

Applicability: Model 767 series airplanes having line numbers 001 through 609, on which the terminating action described in paragraph (e) of this AD has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (g) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent the collapse of the main landing gear (MLG) due to stress corrosion cracking of the aft trunnion of the outer cylinder, accomplish the following:

(a) Perform the inspections described in Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, to detect cracking and corrosion of the aft trunnion of the outer cylinder of the MLG at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable. These inspections are to be accomplished in accordance with Figure 1 of that alert service bulletin. Repeat these inspections thereafter at the intervals specified in that alert service bulletin. To determine the category in which an airplane falls, the age of the outer cylinder of the MLG is to be calculated as of the effective date of this AD. For airplanes on which the age of the right MLG differs from the age of the left MLG, an operator may place the airplane into a category that is the higher (numerically) of the two categories to ease its administrative burden, and to simplify the recordkeeping requirements imposed by this AD. Once the category into which an airplane falls is determined, operators must obtain approval from the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, to move that airplane into another category.

Note 2: The broken (dash) lines used in Figure 1 of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, denote ''go to'' actions for findings of discrepancies detected during any of the inspections required by this AD.

Note 3: Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995, refers to Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, for procedures to repair the outer cylinder and replace the bushings in the outer cylinder of the MLG with new bushings.

(1) For airplanes identified as Category 3 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Perform the initial inspections within 30 days after the effective date of this AD.

(2) For airplanes identified as Category 2 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Perform the initial inspections within 90 days after the effective date of this AD.

(3) For airplanes identified as Category 1 in paragraph I.C. of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995: Perform the initial inspections prior to the accumulation of 2½ years since the MLG outer cylinder was new or overhauled, or within 150 days after the effective date of this AD, whichever occurs later.

(b) If no cracking or corrosion is detected, accomplish the follow-on actions described in the Boeing Alert Service Bulletin 767–32A0151, November 30, 1995, at the time specified in the alert service bulletin. These follow-on actions are to be accomplished in accordance with that alert service bulletin.

(c) If any cracking is detected, prior to further flight, replace the outer cylinder with a new or serviceable outer cylinder in accordance with Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995.

(d) If any corrosion is detected, accomplish the follow-on actions at the time specified in the ''Corrosion Flowchart,'' in Figure 1 of Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995. The follow-on actions are to be accomplished in accordance with that alert service bulletin.

(e) Repair of the outer cylinder and replacement of the bushings in the aft trunnion and crossbolt of the MLG with new bushings in accordance with Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, constitutes terminating action for the inspection requirements of this AD, and for the requirements of AD 95–19–10, amendment 39–9372, and AD 95–20–51, amendment 39–9398. Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, refers to Component Maintenance Manual (CMM) 32–11–40. Operators should note that, although the CMM specifies plugging the aft trunnion lubrication fitting with a rivet, this AD does not require plugging the lube fitting to terminate the requirement of this AD, AD 95–19–10, or AD 95–20–51.

(f) Accomplishment of the requirements of this AD is considered acceptable for compliance with AD 95–19–10, amendment

39–9372, and AD 95–20–51, amendment 39–9398.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(i) The inspections and follow-on actions shall be done in accordance with Boeing Alert Service Bulletin 767–32A0151, dated November 30, 1995. Certain replacements and repairs shall be done in accordance with Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on February 16, 1996.

Issued in Renton, Washington, on January 22, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–1568 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771 and 799

[Docket No. 960111006–6006–01]

RIN 0694–AB29

Revision to the Commerce Control List: Items Controlled for Nuclear Nonproliferation Reasons, Addition of Argentina, New Zealand, Poland, South Africa, and South Korea to GNSG Eligible Countries

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule.

SUMMARY: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to the Export Administration Regulations. The items on the CCL that are subject to nuclear nonproliferation controls are referred to as the Nuclear Referral List (NRL). This interim rule amends a number of Export Control Classification Numbers (ECCNs) on the CCL in order to make the NRL conform more closely with the items contained in the Annex to the ''Nuclear-Related Dual-Use Equipment, Materials, and Related Technology List'' (the Annex) published by the International Atomic Energy Agency and adhered to by the United States and other subscribing governments in the Nuclear Suppliers Group.

In addition, this rule removes Poland from General License GNSG national security item country restrictions. In May 1994, Poland was moved from Country Group W to Country Group V to conform with changes in licensing policies for national security-based proscribed countries.

Lastly, this rule adds Argentina, New Zealand, South Africa and South Korea to the countries that are eligible to receive exports under General License GNSG, because they were admitted to the Nuclear Suppliers Group. The subscribing governments have agreed to establish export licensing procedures for the transfer of items identified on the Annex.

While some of the changes in this rule increase the validated license requirements for certain commodities and technology, the fact that other member countries of the Nuclear Suppliers Group have agreed to implement equivalent export licensing procedures for these items and the addition of GNSG eligible countries should limit the economic impact on U.S. exporters.

DATES: This rule is effective February 1, 1996. Comments must be received by March 4, 1996.

ADDRESSES: Written comments (six copies) should be sent to Sharron Cook, Department of Commerce, Bureau of Export Administration, Office of Exporter Services, Regulation Policy Division, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: For questions of a general nature, call Sharron Cook, Regulatory Policy Division, at (202) 482–2440.

For questions of a technical nature, the following persons in the Bureau of Export Administration are available:

Category 1: Jeff Tripp—(202) 482–4188
Category 2: George Loh—(202) 482–3570
Category 3: Robert Lerner—(202) 482–3710
Category 4: Joseph Young—(202) 482–4197
Category 5: Dale Jensen—(202) 482–4188
Category 6: Joseph Chuchla—(202) 482–4188
Categories 7, 8 and 9: Steve Clagett—(202) 482–4188

SUPPLEMENTARY INFORMATION:

Background

This rule amends a number of entries on the Commerce Control List (CCL) by revising the items that are subject to nuclear non-proliferation controls, i.e., the Nuclear Referral List (NRL). As more fully described in § 778.2 of the EAR, NRL items are defined as those ''that could be of significance for nuclear explosive purposes if used for activities other than those authorized at the time of export''. The changes made by this rule are intended to revise the NRL to conform more closely with the items contained in the Annex to the ''Nuclear-Related Dual-Use Equipment, Materials, and Related Technology List'' (the Annex), as published by the International Atomic Energy Agency in INFCIRC/254/Part 2. The adherents to INFCIRC/254/Part 2, which include the Nuclear Suppliers Guidelines, have agreed to establish export licensing procedures for the transfer of items identified in the Annex.

In addition, this rule removes Poland from General License GNSG national security item country restrictions. There are some ECCNs that have both National Security (NS) and Nuclear Proliferation (NP) reasons for control. For these ECCNs, GNSG eligibility stated ''Yes, except Bulgaria, Poland, Romania, or Russia'', i.e., all NP items in that ECCN were eligible for General License GNSG to all GNSG eligible countries, except Bulgaria, Poland, Romania, or Russia. Although Poland is a NSG member, the more restrictive control, in this case NS, was applied. In May 1994, Poland was moved from Country Group W to Country Group V to conform with changes in licensing policies for proscribed countries. Therefore, NS reasons for control no longer apply to Poland and GNSG privileges now extend to all ECCNs that have both NS and NP controls for Poland.

Lastly, this rule will add Argentina, New Zealand, South Africa, and South Korea to the countries that are eligible to receive exports under General License GNSG, because they were admitted to the Nuclear Suppliers Group. General License GNSG permits certain items subject to nuclear nonproliferation controls to be exported under general license to a number of countries whose governments have subscribed to the Annex to the ''Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Material,

and Related Technology'' (the Annex) published by the International Atomic Energy Agency and adhered to by the United States and other subscribing governments. The subscribing governments have agreed to establish export licensing procedures for the transfer of items identified on the Annex.

Saving Clause

Shipments of items removed from general license authorizations as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard carrier to a port of export pursuant to actual orders for export before February 15, 1996 may be exported under the previous general license provisions up to and including February 29, 1996. Any such items not actually exported before midnight, February 29, 1996, require a validated export license in accordance with this regulation.

Summary of ECCNs Added and Revised by This Rule

The following listing is intended to serve as a guide to the revisions to the Commerce Control List contained in this rule. It is not a complete summary of all the CCL changes made by this rule. Specific questions concerning these changes should be answered by referring to the actual entries in the CCL.

I. The following ECCNs are amended to revise the items subject to nuclear nonproliferation controls (Unless specifically stated the scope of the ECCN is not revised):

1A46B Aluminum and titanium alloys in the form of tubes or solid forms; a clarification to scope of control of solid forms was added

1B16A Plants for the production of uranium hexafluoride (UF_6) and specially designed or prepared equipment (including UF_6 purification equipment); Poland was added to GNSG eligibility

1B17 Electrolytic cells for the production of fluorine with a production capacity greater than 250 grams of fluorine per hour; Poland was added to GNSG eligibility

1B50B Furnaces; the ECCN title is expanded to include ''(inert gas) induction'' furnaces and clarifications are added that define which furnaces are controlled in paragraph (a)—result will be a decrease in scope of controls

1B51B Pressure sensing elements/measuring instruments; the entry was restructured to remove controls on differential pressure transducers and stainless steel was removed as a material of construction—result will be a decontrol in these areas

1B52B Water-hydrogen sulfide exchange tray columns; materials of construction is clarified

1B53B Hydrogen-cryogenic distillation columns; materials of construction is clarified

1B54B Ammonia synthesis converters; clarification is made to the entry and a technical note is removed

1B58B Facilities or plants for prod/recovery/extract/concentration/handling of tritium; the entry is reorganized for better clarity

1C10A ''Fibrous and filamentary materials'' that may be used in organic ''matrix'', metallic ''matrix'' or carbon ''matrix'' ''composite'' structures or laminates; Poland is added to GNSG eligibility and GCT is corrected to state ''Yes, except NP items''

1C19A Items on the International Atomic Energy List (e.g., zirconium, nickel powder, lithium, beryllium, wet-proofed platinized catalysts, hafnium); Poland is added to GNSG eligibility; the scope is narrowed by applying the hafnium content parameter to all entries of Zirconium in paragraph (a); in paragraph (b), pertaining to porous nickel metal, the exception is increased from 930 cm^2 to 1000 cm^2 per sheet and a technical note is revised; and in paragraph (d), an exception for bore-hole logging devices and Beryl (silicate of beryllium and aluminum) in the form of emeralds or aquamarines is added—the result of these changes will be a decrease in licensing requirements

1C50B Fibrous and filamentary materials not controlled by 1C10; an exception for certain aramid ''fibrous or filamentary materials'' is added—result will be a decrease in licenses; the controls on prepregs is clarified; and definitions are added to the technical note

1C54B Alpha-emitting radionuclides; minor clarifications are made to the entry

1C55B Helium isotopically enriched in the helium-3 isotope; the entry is restructured for clarification purposes

1C58B Radium-226; the entry is restructured for clarification purposes

1D01A ''Software'' specially designed or modified for the ''development'', ''production'', or ''use'' of equipment controlled by 1B01, 1B02, 1B03, 1B16, 1B17, or 1B18; Poland is added to GNSG eligibility

1E01A Technology according to the General Technology Note for the ''development'' or ''production'' of equipment or materials controlled by 1A01.b, 1A01.c, 1A02, 1A03, 1B01, 1B02, 1B03, 1B18, 1C01, 1C02, 1C03, 1C04, 1C05, 1C06, 1C07, 1C08, 1C09, 1C10, or 1C18; Poland is added to GNSG eligibility

1E19A Technology according to the General Technology Note for the ''development'', ''production'', or ''use'' of equipment or materials controlled by 1B16, 1B17, or 1C19; Poland is added to GNSG eligibility

1E41B Technology for items controlled by 1A44, 1A45, 1A46, 1A47, 1A50, 1B41, 1B42, 1B50, 1B51, 1B52, 1B53, 1B54, 1B58, 1B59, 1C48, 1C49, 1C50, 1C51, 1C52, 1C53, 1C54, 1C55, 1C56, 1C57, or 1C58; 1B55 and 1B57 are added to entry title to reflect new ECCNs

2A19A Commodities on the International Atomic Energy List (e.g., power generating and/or propulsion equipment, neutron generator systems, and valves for gaseous diffusion separation process); Poland is added to GNSG eligibility

2A48B Valves not controlled by 2A19.c that are made of or lined with aluminum, aluminum alloy, nickel, or alloy containing 60 percent or more nickel; revisions are made to the title and technical note for clarification purposes

2A50B Equipment related to nuclear material handling and processing and to nuclear reactors; in paragraph (c), a clarification is made to the parameters; in paragraph (e), the paragraph is restructured and a note added for clarification purposes

2A52B Vacuum pumps; the title is corrected, and a technical note added for clarification

2B01A ''Numerical control'' units, ''motion control boards'' specially designed for ''numerical control'' applications on machine tools, machine tools, and specially designed components therefor; Poland is added to GNSG eligibility and a note added to the Requirement section

2B06A Dimensional inspection or measuring systems or equipment; Poland is added to GNSG eligibility and a note added to the Requirement section

2B07A Robots, controllers, and end-effectors; Poland is added to GNSG eligibility

2B08A Assemblies, units or inserts for machine tools; NP controls have been removed because of NSG October 1995 agreement on machine tools

2B09A Specially designed printed circuit boards with mounted components and software therefor, or ''compound rotary tables'' or ''tilting spindles'', capable of upgrading, according to the manufacturer's specifications, ''numerical control'' units, machine tools or feed-back devices to or above the levels specified in ECCNs 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, and 2B08; NP controls have been removed because of NSG October 1995 agreement on machine tools

2B41B ''Numerically controlled'' machine tools not controlled by ECCN 2B01A; turning capacity parameter has been increased from 2m to 2.5m

2B50B Spin-forming and flow-forming machines; a new parameter and note are added to clarify the scope of control and the scope of GNSG eligibility is amended to reflect the clarifying revisions made to the list of items controlled

2D01A Software for equipment controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, or 2B09; Poland is added to GNSG eligibility and GNSG eligibility is clarified to include revisions made by this rule

2D19A ''Software'' for the ''development'', ''production'', or ''use'' of equipment controlled by 2A19; Poland is added to GNSG eligibility

2D50B Software for the equipment controlled by 2A50B or 2B50B; GNSG eligibility is clarified

2E01A Technology according to the General Technology Note for the ''development'' of equipment or ''software'' controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06,

2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, 2B09, 2D01, or 2D02; Poland is added to GNSG eligibility

2E02A Technology according to the General Technology Note for the ''production'' of equipment controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, or 2B09; Poland is added to GNSG eligibility

2E03A Other technology; Poland is added to GNSG eligibility

2E19A Technology for the ''development'', ''production'', or ''use'' of equipment controlled by 2A19; Poland is added to GNSG eligibility

2E50B Technology for the equipment controlled by 2A50B or 2B50B; the Reason for control is corrected to include MT controls; and NP and MT notes are added for clarification

3A01A Electronic devices and components; Poland is added to GNSG eligibility

3D01A ''Software'' specially designed for the ''development'' or ''production'' of equipment controlled by 3A01.b to 3A01.f, 3A02, and 3B01; Poland is added to GNSG eligibility

3E01A Technology according to the General Technology Note for the ''development'' or ''production'' of equipment or materials controlled by 3A01, 3A02, 3B01, 3C01, 3C02, 3C03, or 3C04; Poland is added to GNSG eligibility

6A03A Cameras; Poland is added to GNSG eligibility

6A05A ''Lasers'', components and optical equipment; Poland is added to GNSG eligibility

6A43B Cameras and components not controlled by 6A03—includes radiation-hardened television cameras; paragraphs (a) and (c) are restructured and a note added to paragraph (a) for clarification

6E01A Technology according to the General Technology Note for the ''development'' of equipment, materials or ''software'' controlled by 6A01, 6A02, 6A03, 6A04, 6A05, 6A06, 6A07, 6A08, 6B04, 6B05, 6B07, 6B08, 6C02, 6C04, 6C05, 6D01, 6D02, or 6D03; Poland is added to GNSG eligibility

6E02A Technology according to the General Technology Note for the ''production'' of equipment or materials controlled by 6A01, 6A02, 6A03, 6A04, 6A05, 6A06, 6A07, 6A08, 6B04, 6B05, 6B07, 6B08, 6C02, 6C04, or 6C05; Poland is added to GNSG eligibility

9B26B Other vibration test equipment; the reason for controls is corrected to add NP controls which was inadvertently omitted in a previous rule; NP controls are increased by adding all of paragraph (a) to the NP scope—the result will not be an increase in licensing, because these entries are already controlled for MT reasons; and a NP note is clarified

II. The following new ECCNs are added to control items listed in the Annex, but not previously controlled on the CCL:

1B55B Turboexpanders or turboexpander-compressor sets designed for operation below 35K and a throughput of hydrogen gas of 1000 kg/hr or greater

1B57B Lithium isotope separation facilities, plants and equipment.

III. Although Commerce will retain unilateral nuclear nonproliferation controls on the following items, the United States Government will continue to urge multilateral adoption of comparable controls. Please note that ECCNs 2A49E, 2A50B, 2D49E, and 2E49E are the only entries revised in this list.

1A48B Depleted uranium

2A49E The following items, previously requiring a validated license to Country Groups S&Z, South African military and police, and countries listed in Supplement No. 4 to Part 778, now only require a validated license to Country Groups S, Z and countries listed in Supplement No. 4 to Part 778: Generators, turbine generator sets, steam turbines, heat exchangers, and heat exchanger type condensers and process control systems therefor

2A50B Reactor and power plant simulators and analytical models for reactor and power plant simulators; in paragraph (c), clarification to parameters; in paragraph (e), restructured and note added for clarification

2A51B Piping, fittings, and valves made of, or lined with, stainless steel, copper-nickel alloy or other alloy steel containing 10% or more nickel and/or chromium

2A53B Pumps designed to move molten metals by electromagnetic forces

2D49E The following items, previously requiring a validated license to Country Groups S & Z, South African military and police, and countries listed in Supplement No. 4 to Part 778, now only require a validated license to Country Groups S, Z and countries listed in Supplement No. 4 to Part 778: Software for equipment controlled by 2A49E

2E49E The following items, previously requiring a validated license to Country Groups S & Z, South African military and police, and countries listed in Supplement No. 4 to Part 778, now only require a validated license to Country Groups S, Z and countries listed in Supplement No. 4 to Part 778: Technology for equipment controlled by 2A49E

4A01A Electronic computers that are radiation-hardened, specially designed for operation at extreme temperatures, or capable of performing functions exceeding the limits of the ''information security'' entries in Category 5 (NP controls apply to computers with a CTP of 500 Mtops or more to countries listed in Supplement No. 4 to Part 778)

4A02A Hybrid computers (NP controls apply to computers with a CTP of 500 Mtops or more to countries listed in Supplement No. 4 to Part 778)

4A03A Digital computers (NP controls apply to computers with a CTP of 500 Mtops or more to countries listed in Supplement No. 4 to Part 778)

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, and extended by a notice published in the Federal Register on August 15, 1995.

Rulemaking Requirements

1. This interim rule has been determined to be significant for the purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005, and 0694–0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act, (5 U.S.C. 553), requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 5 U.S.C. 553 or by any other law, under sections 3(a) and 4(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so.

The period for submission of comments will close March 4, 1996. The Department will consider all comments received on or before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their

consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requests comments in written form.

Oral comments should be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Theodore Zois, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482–1525.

List of Subjects in 15 CFR Parts 771 and 799

Exports, Reporting and recordkeeping requirements.

Accordingly, Parts 771 and 799 of the Export Administration Regulations (15 CFR Parts 730–799) are amended as follows:

PART 771—[AMENDED]

1. The authority citation for 15 CFR Parts 771 and 799 continues to read as follows:

Authority: 50 U.S.C. App. 5, as amended; Pub. L. 264, 59 Stat. 619 (22 U.S.C. 287c), as amended; Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended; sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); Pub. L. 102–484, 106 Stat. 2575 (22 U.S.C. 6004); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978); E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12851 of June 11, 1993 (58 FR 33181, June 15, 1993); E.O. 12867 of September 30, 1993 (58 FR 51747, October 4, 1993); E.O 12918 of May 26, 1994 (59 FR 28205, May 31, 1994); E.O. 12924 of August 19, 1994 (59 FR 43437 of August 23, 1994); and E.O. 12938 of November 14, 1994 (59 FR 59099 of November 16, 1994); and Notice of August 15, 1995 (60 FR 42767).

2. In § 771.24 paragraphs (b) and (c) are revised to read as follows:

§ 771.24 General License GNSG.

(a) * * *

(b) *Eligible countries.* The countries that are eligible to receive exports under this general license are Argentina, Australia, Austria, Belgium, Bulgaria, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Korea (Republic of), Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Russia, the Slovak Republic, South Africa, Spain, Sweden, Switzerland, and the United Kingdom. Canada is also a member of the Nuclear Suppliers Group, but generally there is no license requirement for shipments to Canada (see § 770.3).

(c) *Eligible commodities, software, and technology.* The items that are eligible for export under this General License GNSG are indicated in the GNSG paragraph under the Requirements heading for each entry on the CCL that contains eligible items. Entries that contain no eligible items do not have a GNSG paragraph. General License GNSG may only be used for items controlled for nuclear proliferation reasons. Items that are subject to the missile technology controls described in § 778.7 are not eligible for General License GNSG. Items controlled for national security reasons (i.e., entries that end in the code letter ''A'') are not eligible for shipment under General License GNSG to Bulgaria, Romania, or Russia. All shipments under General License GNSG are subject to the prohibitions contained in § 771.2(c), except that the prohibitions in § 771.2(c)(2) do not apply to Russia for items controlled by entries that do not end in the code letter ''A''.

* * * * *

PART 799—[AMENDED]

Supplement No. 1 to § 799.1 [Amended]

The following amendments are made to Supplement No. 1 to § 799.1:

3. In Category 1 (Materials), ECCNs 1A46B, 1B50B and heading, 1B51B, 1B52B, 1B53B, 1B54B, 1B58B, 1C19A, 1C50B, 1C54B, 1C55B, 1C58B, and 1E41B and heading are revised, ECCNs 1B16A, 1B17A, 1C10A, 1D01A, 1E01A, 1E19A are amended by revising the requirements sections and new ECCNs 1B55B and 1B57B are added, as follows:

1A46B Aluminum and titanium alloys in the form of tubes or cylindrical solid forms (including forgings) with an outside diameter of more than 75 mm (3 inches).

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

Alloys in the form of tubes or cylindrical solid forms (including forgings) with an outside diameter of more than 75 mm (3 inches), as follows:

a. Aluminum alloys capable of an ultimate tensile strength of 460 MPa (0.46×10^9 N²) or more at 293 K (20° C);

b. Titanium alloys capable of an ultimate tensile strength of 900 MPa (0.9×10^9 N/m²) (130,500 lbs./in²) or more at 293 K (20° C).

Technical Note: Alloys ''capable of'' a specified tensile strength include those having that strength at the time of export, as well as those capable of attaining that strength as a result of heat treatment.

1B16A Plants for the production of uranium hexafluoride (UF_6) and specially designed or prepared equipment (including UF_6 purification equipment), and specially designed parts and accessories therefor.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS, NPP (items appear on International Atomic Energy List).
GLV: $0.

GCT: No.
GFW: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Note*).

Note: See 10 CFR Part 110 for nuclear plants subject to the export licensing authority of the Nuclear Regulatory Commission (i.e., fuel fabrication facilities, enrichment facilities, reprocessing facilities, and heavy water production facilities).

* * * * *

1B17A Electrolytic cells for the production of fluorine with a production capacity greater than 250 grams of fluorine per hour, and specially designed parts and accessories therefor.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS, NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia.

* * * * *

1B50B Vacuum or controlled environment (inert gas) induction furnaces.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

a. Vacuum or controlled environment (inert gas) induction furnaces capable of operation above 850° C and having induction coils 600 mm (24 in.) or less in diameter, and designed for power inputs of 5kW or more; and power supplies specially designed therefor with a specified power output of 5 kW or more;

b. Vacuum and controlled atmosphere metallurgical melting and casting furnaces, as follows, and specially configured computer control and monitoring systems therefor:

b.1. Arc remelt and casting furnaces with consumable electrode capacities equal to or greater than 1,000 cm^3, *and* less than or equal to 20,000 cm^3, and capable of operating with melting temperatures above 1,700° C;

b.2. Electron beam melting and plasma atomization and melting furnaces with a power of 50 kW or greater and capable of operating with melting temperatures above 1,200° C.

Note: This ECCN does not control furnaces designed for semiconductor wafer manufacturing or processing (see ECCN 3B96).

1B51B Pressure transducers which are capable of measuring absolute pressure at any point in the range 0 to 13 kPa, with pressure sensing elements made of or protected by nickel, nickel alloys with more than 60% nickel by weight, aluminum or aluminum alloys as follows:

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

a. Transducers with a full scale of less than 13 kPa and an accuracy of better than ±1% of full scale;

b. Transducers with a full scale of 13 kPa or greater and an accuracy of better than ±130 Pa.

Technical Notes: 1. Pressure transducers are devices that convert pressure measurements into an electrical signal.

2. For the purposes of this entry, ''accuracy'' includes non-linearity, hysteresis and repeatability at ambient temperature.

1B52B Water-hydrogen sulfide exchange tray columns constructed from fine carbon steel with a diameter of 1.8 m (6 ft.) or greater, which can operate at a nominal pressure of 2 Mpa (300 psi) or greater, and internal contactors therefor.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Note: This ECCN does not control columns specially designed or prepared for the production of heavy water. See 10 CFR Part 110 for heavy water production equipment subject to the export licensing authority of the Nuclear Regulatory Commission.

Technical Notes: 1. For columns which are especially designed or prepared for the production of heavy water, see INFCIRC/254/Part 1.

2. Internal contactors of the columns are segmented trays with an effective assembled diameter of 1.8 m (6 ft.) or greater, are designed to facilitate countercurrent contacting and constructed of materials resistant to corrosion by hydrogen sulfide/water mixtures. These may be sieve trays, valve trays, bubble cap trays or turbogrid trays.

3. Fine carbon steel in this entry is defined to be steel with the austenitic ASTM (or equivalent standard) grain size number of 5 or greater.

4. Materials resistant to corrosion by hydrogen sulfide/water mixtures in this entry are defined to be stainless steels with a carbon content of 0.03% or less.

1B53B Hydrogen-cryogenic distillation columns.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

Hydrogen-cryogenic distillation columns having all of the following characteristics:

a. Designed to operate at internal temperatures of −238° C (35 K) or less;

b. Designed to operate at internal pressure of 0.5 to 5 MPa (5 to 50 atmospheres);

c. Constructed of fine-grain stainless steels of the 300 series with low sulfur content or equivalent cryogenic and H_2-compatible materials; *and*

d. With internal diameters of 1 m or greater and effective lengths of 5 m or greater.

Technical Note: Fine-grain stainless steels in this item are defined to be fine-grain austenitic stainless steels with an ASTM (or equivalent standard) grain size number of 5 or greater.

Note: See 10 CFR 110 for heavy water production equipment subject to the export licensing authority of the Nuclear Regulatory Commission.

1B54B Ammonia synthesis converters or synthesis units in which the synthesis gas (nitrogen and hydrogen) is withdrawn from an ammonia/hydrogen high-pressure exchange column and the synthesized ammonia is returned to said column.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

1B55B Turboexpanders or turboexpander-compressor sets designed for operation below 35K

and a throughput of hydrogen gas of 1000 kg/hr or greater.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

1B57B Lithium isotope separation facilities, plants and equipment.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Lithium isotope separation facilities, plants and equipment, as follows:

a. Facilities or plants for the separation of lithium isotopes;

b. Equipment for the separation of lithium isotopes, as follows:

b.1. Packed liquid-liquid exchange columns specially designed for lithium amalgams;

b.2 Mercury and/or lithium amalgam pumps;

b.3 Lithium amalgam electrolysis cells;

b.4 Evaporators for concentrated lithium hydroxide solution.

1B58B Tritium facilities, plants and equipment, as follows:

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

a. Facilities or plants for the production, recovery, extraction, concentration, or handling of tritium;

b. Equipment for tritium facilities or plants, as follows:

b.1. Hydrogen or helium refrigeration units capable of cooling to 23 K (−250°C) or less, with heat removal capacity greater than 150 watts;

b.2. Hydrogen isotope storage and purification systems using metal hydrides as the storage, or purification medium.

Note: This ECCN 1B58B does not control tritium, tritium compounds, and mixtures containing tritium, or products or devices thereof. Tritium is subject to the export licensing authority of the Nuclear Regulatory Commission.

1C10A ''Fibrous and filamentary materials'' that may be used in organic ''matrix'', metallic ''matrix'' or carbon ''matrix'' ''composite'' structures or laminates.

Requirements

Validated License Required: QSTVWYZ.
Unit: kilograms.
Reason for Control: NS, MP (see *Note).*
GLV: $1500, *except* $0 for NP items (see *Note).*
GCT: Yes, except NP items (see *Note).*
GFW: No.
GNSG: Yes, except Bulgaria, Romania, or Russia, for NP only (see *Note*).

Notes: NP controls apply to 1C10.a (all aramid ''fibrous and filamentary materials''), 1C10.b. (all carbon ''fibrous and filamentary materials''), 1C10.c. (all glass ''fibrous and filamentary materials''), and 1C10.e.1.

* * * * *

1C19A Zirconium, nickel powder and porous nickel metal, lithium, beryllium metal, wet-proofed platinized catalysts, and hafnium.

Requirements

Validated License Required: QSTVWYZ.
Unit: Kilograms.
Reason for Control: NS, NP (see Notes).
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Notes*).

Notes: 1. NP controls apply to entire entry, except shipments of zirconium foil or strip having a thickness not exceeding 0.10 mm.

2. NS controls apply to entire entry, except for zirconium metal, alloys, or compounds in shipments of 5 kg or less and shipments of 200 kg or less of zirconium foil or strip having a thickness not exceeding 0.10 mm.

List of Items Controlled

a. Zirconium, with a hafnium content of less than 1 part hafnium to 500 parts zirconium by weight, in the form of:

a.1. Zirconium metal;

a.2. Alloys containing more than 50% zirconium by weight;

a.3. Compounds;

a.4. Manufactures wholly of zirconium metal, alloys, or compounds described in 1C19.a.1, a.2, or a.3;

a.5. Waste and scrap from zirconium metal, alloys, compounds, or manufactures wholly thereof controlled by 1C19.a.1, a.2, a.3, or a.4.

Note 1: This ECCN 1C19 does not control zirconium in the form of foil having a thickness not exceeding 0.10 mm (0.004 in.).

Note 2: Zirconium metal and alloys in the form of tubes or assemblies of tubes, specially designed or prepared for use in a reactor are subject to the export licensing authority of the Nuclear Regulatory Commission (see 10 CFR Part 110).

b. Nickel powder and porous nickel metal, as follows:

b.1. Powder with a nickel purity content of 99.0% or more and a mean particle size of less than 10 micrometers measured by the ASTM B 330 standard, except filamentary nickel powders;

b.2. Porous nickel metal produced from materials controlled for export by 1C19.b.1, *except* single porous nickel metal sheets not exceeding 1000 cm^2, per sheet.

Note: 1C19.b.2 controls porous nickel metal formed by compacting and sintering nickel powder, described in 1C19.b.1, to form a metal material with fine pores interconnected throughout the structure.

c. Lithium (isotopically enriched in lithium-6), as follows:

c.1. Metal, hydrides, or alloys containing lithium enriched in the 6 isotope (^6Li) to a concentration higher than the one existing in nature (7.5% on an atom percentage basis);

c.2. Any other materials containing lithium enriched in the 6 isotope (including compounds, mixtures, and concentrates), *except* lithium enriched in the 6 isotope incorporated in thermoluminescent dosimeters.

d. Beryllium, as follows:

d.1. Beryllium metal;

d.2. Alloys containing more than 50% beryllium by weight;

d.3. Beryllium compounds;

d.4. Manufactures of beryllium metal, alloys, or compounds described in 1C19.d.1, d.2, or d.3;

d.5. Waste and scrap from beryllium metal, alloys, compounds, or manufactures thereof described in 1C19.d.1, d.2, d.3, or d.4.

Note: 1C19.d does not control:

a. Metal windows for X-ray machines, or for bore-hole logging devices;

b. Oxide shapes in fabricated or semi-fabricated forms specially designed for electronic component parts or as substrates for electronic circuits; and

c. Beryl (silicate of beryllium and aluminum) in the form of emeralds or aquamarines.

e. Wet-proofed platinized catalysts specially designed or prepared for promoting the hydrogen isotope exchange reaction between hydrogen and water for the recovery of tritium from heavy water or for heavy water production.

f. Hafnium, as follows:

f.1. Hafnium metal;

f.2. Alloys and compounds of hafnium containing more than 60 percent hafnium by weight;

f.3. Manufactures of hafnium metal, alloys, or compounds described in f.1 or f.2.

1C50B ''Fibrous or filamentary materials'' not controlled by 1C10.

Requirements

Validated License Required: QSTVWYZ.
Unit: Kilograms.
Reason for Control: NP, FP (see Note).
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Note: FP controls apply to Iran and Syria for the items described in 1C50.b.

List of Items Controlled

''Fibrous or filamentary materials'' not controlled by 1C10, as follows:

a. Carbon or aramid ''fibrous and filamentary materials'' having:

a.1. A ''specific modulus'' of 12.7×10^6 m or greater; *or*

a.2. A ''specific tensile strength'' of 23.5×10^6 m or greater;

Note: 1C50.a does not include aramid ''fibrous or filamentary materials'' having 0.25 percent or more by weight of an ester based fiber surface modifier.

b. Glass ''fibrous or filamentary materials'' having:

b.1. A ''specific modulus'' of 3.18×10^6 m or greater; *and*

b.2. A ''specific tensile strength'' of 7.62×10^4 m or greater;

c. Thermoset resin impregnated continuous yarns, rovings, tows or tapes with a width no greater than 15 mm (prepregs), made from carbon or glass ''fibrous or filamentary materials'' described in 1C50.a or .b;

Note: The resin forms the matrix of the composite.

d. Composite structures in the form of tubes with an inside diameter greater than 75 mm (3 in.), but less than 400 mm (16 in.), made with ''fibrous or filamentary materials'' described in 1C50.a or carbon prepreg materials described in 1C50.c.

Technical Note: 1. For the purpose of this entry, the term ''fibrous or filamentary materials'' means continuous monofilaments, strands, rovings, yarns, tows or tapes.

Definitions

Filament or Monofilament is the smallest increment of fiber, usually several μm in diameter.

Strand is a bundle of filaments (typically over 200) arranged approximately parallel.

Roving is a bundle (typically 12–120) of approximately parallel strands.

Yarn is a bundle of twisted stands.

Tow is a bundle of filaments, usually approximately parallel.

Tape is a material constructed of interlaced or unidirectional filaments, strands, rovings, tows or yarns, etc., usually preimpregnated with resin.

2. *Specific modulus* is the Young's modulus in N/m^2 divided by the specific weight in M/m^3, measured at a temperature of 23±2° C and a relative humidity of 50±5 percent.

3. *Specific tensile strength* is the ultimate tensile strength in N/m^2 divided by specific weight in N/m^3, measured at a temperature of 23±2° C and a relative humidity of 50±5 percent.

1C54B Alpha-emitting radionuclides having an alpha half-life of 10 days or greater but less than 200 years, compounds or mixtures containing any of these radionuclides with a total alpha activity of 1 curie per kilogram (37 GBq/kg) or greater, and products or devices containing any of the forgoing.

Requirements

Validated License Required: QSTVWYZ.
Unit: Millicuries.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Technical Note: This ECCN does not control products or devices containing less than 3.7 GBq (100 millicuries) of alpha activity.

Note: See 10 CFR Part 110 for alpha-emitting radionuclides subject to the export licensing authority of the Nuclear Regulatory Commission.

1C55B Helium-3 or helium isotopically enriched in the helium-3 isotope, mixtures containing helium-3, and products or devices containing any of the foregoing.

Requirements

Validated License Required: QSTVWYZ.
Unit: Liters.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Note: 1C55 does not control a product or device containing less than 1g of helium-3.

1C58B Radium-226, radium-226 compounds, or mixtures containing radium-226, and products or devices containing any of the foregoing.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Technical Note: This ECCN does not control radium contained in medical applicators, or a product or device containing not more than 0.37 GBq (10 millicuries) of radium-226 in any form.

1D01A ''Software'' specially designed or modified for the ''development'', ''production'', or ''use'' of equipment controlled by 1B01, 1B02, 1B03, 1B16, 1B17, or 1B18.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS, MT, NP (see *Notes*).
GTDR: Yes, except MT and NP (see *Notes*).
GTDU: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Notes*).

Notes: 1. MT controls apply to software for the ''development'', ''production'', or ''use'' of equipment controlled by 1B01 (except 1B01.d.4 and 1B01.f) and 1B18.a.

2. NP controls apply to software for the ''development'', ''production'', or ''use'' of filament winding machines described in 1B01.a that are capable of winding cylindrical rotors with diameters between 75 mm (3 in.) and 400 mm (16 in.) and lengths of 600 mm (24 in.) or greater.

* * * * *

1E01A Technology according to the General Technology Note for the ''development'' or ''production'' of equipment or materials controlled by 1A01.b, 1A01.c, 1A02, 1A03, 1B01, 1B02, 1B03, 1B18, 1C01, 1C02, 1C03, 1C04, 1C05, 1C06, 1C07, 1C08, 1C09, 1C10, 1C18 or 1C50.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, NP, MT, FP (see *Notes*).
GTDR: Yes, *except* NP, MT, and FP (see *Notes*).
GTDU: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Notes*).

Notes: 1. NP controls apply to exports to all destinations of technology for the ''development'' or ''production'' of the following:

a. Filament winding machines controlled by 1B01.a that are capable of winding cylindrical rotors having a diameter between 3 inches and 16 inches and a length of 24 inches or greater;

b. ''Fibrous or filamentary materials'' controlled by 1C10 or 1C50.

2. MT controls apply to technology for items controlled for missile technology reasons by 1A02 or 1B01 (except 1B01.d.4 and f).

3. FP controls apply to all technology described in this entry for Iran and Syria.

Related ECCNs: See 1E40B for NP controls on technology for the ''use'' of filament winding machines controlled by 1B01A.a.

* * * * *

1E19A Technology according to the General Technology Note for the ''development'', ''production'', or ''use'' of equipment or materials controlled by 1B16, 1B17, or 1C19.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, NP (see Note).
GTDR: No.
GTDU: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Note*).

Note: NP controls apply to technology for the ''development'', ''production'', or ''use'' of plants controlled by 1B16, equipment controlled by 1B17, or materials controlled by 1C19.

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1E41B Technology for the ''development'', ''production'', or ''use'' of items controlled by 1A44B, 1A45B, 1A46B, 1A47B, 1A48B, 1A50B, 1B41B, 1B42B, 1B50B, 1B51B, 1B52B, 1B53B, 1B54B, 1B55B, 1B57B, 1B58B, 1B59B, 1C49B, 1C50B, 1C51B, 1C52B, 1C53B, 1C54B, 1C55B, 1C56B, 1C57B, or 1C58B or for the ''use'' of items controlled by 1C10.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NP, FP (see *Note*).
GTDR: No.
GTDU: No.
GNSG: Yes.

Note: FP controls apply to Iran and Syria for technology for the ''development'', ''production'', or ''use'' of glass ''fibrous and filamentary materials'' controlled by 1C50.b.

4. In Category 2 (Materials Processing), ECCNs 2A48B and heading, 2A49E, 2A50B, 2A52B and heading, 2B01A, 2B08A, 2B41B, 2B50B, 2D01A, 2D49E, 2D50B, 2E49E, and 2E50B are revised, and ECCNs 2A19A, 2B06A, 2B07A, 2B09A, 2D19A, 2E01A, 2E02A, 2E03A, and 2E19A are amended by revising the Requirements sections as follows:

2A19A Commodities on the International Atomic Energy List (e.g., power generating and/or propulsion equipment, neutron generator systems, and valves for gaseous diffusion separation process).

Requirements

Validated License Required: QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NS and NP (see *Note*).
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes for 2A19.b and c, except to Bulgaria, Romania, or Russia.

Note: NP controls apply to items described in 2A19.b or c.

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2A48B Valves not controlled by 2A19.c that are 5 mm (0.2 in.) or greater in nominal size, with a bellows seal, wholly made of or lined with aluminum, aluminum alloy, nickel, or alloy containing 60 percent or more nickel, either manually or automatically operated.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Technical Note: For valves with different inlet and outlet diameter, the nominal size parameter above refers to the smallest diameter.

Note: See 10 CFR Part 110 for valves subject to the export licensing authority of the Nuclear Regulatory Commission.

2A49E Generators and other equipment specially designed, prepared, or intended for use with nuclear plants.

Requirements

Validated License Required: SZ, and countries listed in Supplement No. 4 to Part 778.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.

List of Items Controlled

a. Generators, turbine-generator sets, steam turbines, heat exchangers, and heat exchanger type condensers designed or intended for use in a nuclear reactor;

b. Process control systems intended for use with the equipment controlled by 2A49.a.

Note: See 10 CFR Part 110 for nuclear equipment subject to the export licensing authority of the Nuclear Regulatory Commission.

2A50B Equipment related to nuclear material handling and processing and to nuclear reactors.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

a. Reactor and power plant simulators and analytical models for reactor and power plant simulators, models or mock-ups;

b. Process control systems, except those controlled by 2A49.b, intended for use with nuclear reactors;

c. High density (lead glass or other) radiation shielding windows greater than 0.09 m^2 on cold area and with a density greater than 3 g/cm^3 and a thickness of 100 mm or greater; and specially designed frames therefor;

d. Casks that are specially designed for transportation of high level radioactive material and that weigh more than 1,000 kg;

e. Remote manipulators that can be used to provide remote actions in radiochemical separation operations and ''hot cells'', as follows:

1. Having a capability of penetrating 0.6 m or more (2 ft. or more) of hot cell wall ('through-the-wall' operation); or

2. Having a capability of bridging over the top of a hot cell wall with a thickness of 0.6 m or more (2 ft. or more) ('over-the-wall' operation).

Note: Remote manipulators provide translation of human operator actions to a remote operating arm and terminal fixture.

They may be of a 'master/slave' type or operated by joystick or keypad.

f. Commodities, parts and accessories specially designed or prepared for use with nuclear plants (e.g., snubbers, airlocks, reactor and fuel inspection equipment), except items licensed by the Nuclear Regulatory Commission pursuant to 10 CFR, part 110.

Note: See 10 CFR part 110 for nuclear equipment subject to the export licensing authority of the Nuclear Regulatory Commission.

2A52B Vacuum pumps with an input throat size of 38 cm (15 in.) or greater with a pumping speed of 15,000 liters/second or greater and capable of producing an ultimate vacuum better than 10^{-4} Torr (1.33×10^{-4} mbar).

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

Technical Notes: 1. The ultimate vacuum is determined at the input of the pump with the input of the pump blocked off.

2. The pumping speed is determined at the measurement point with nitrogen gas or air.

Note: See 10 CFR part 110 for vacuum pumps for gaseous diffusion separation process subject to the export licensing authority of the Nuclear Regulatory Commission.

2B01A ''Numerical control'' units, specially designed ''motion control boards'' for ''numerical control'' applications on machine tools, ''numerically controlled'' machine tools and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NS and NP (See *Note*).
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia.

Note: NP controls apply to entire entry except 2B01.a and .b unless controlled software in 2D01 or 2D02.b resides there in, 2B01.c.1.b.1 (turning machines only), c.1.b.2, c.1.b.3, c.1.b.4, c.1.b.5.a, c.2 and c.4, milling machines with greater than 2 meters travel and worse than 30 micron accuracy, or crankshaft and camshaft grinding machines.

List of Items Controlled

Technical Notes: 1. Secondary parallel contouring axes, e.g., the w-axis on horizontal boring mills or a secondary rotary axis the center line of which is parallel to the primary rotary axis, are not counted in the total number of contouring axes.

Note: Rotary axes need not rotate over 360°. A rotary axis can be driven by a linear device, e.g., a screw or a rack-and-pinion.

2. Axis nomenclature shall be in accordance with International Standard ISO 841, 'Numerical Control Machines—Axis and Motion Nomenclature'.

a. ''Numerical control'' units for machine tools, as follows, and specially designed components therefor:

a.1. Having more than four interpolating axes that can be coordinated simultaneously for ''contouring control''; *or*

a.2. Having two, three or four interpolating axes that can be coordinated simultaneously for ''contouring control'' and one or more of the following:

a.2.a. Capable of ''real-time processing'' of data to modify the tool path during the machining by automatic calculation and modification of part program data for machining in two or more axes by means of measuring cycles and access to source data;

a.2.b. Capable of receiving directly (on-line) and processing computer-aided-design (CAD) data for internal preparation of machine instructions; *or*

a.2.c. Capable, without modification, according to the manufacturer's technical specifications, of accepting additional boards that would permit increasing the number of interpolating axes that can be coordinated simultaneously for ''contouring control'', above the control levels specified in 2B01, even if they do not contain these additional boards;

b. ''Motion control boards'' specially designed for machine tools and having any of the following characteristics:

b.1. Providing interpolation in more than four axes;

b.2. Capable of ''real time processing'' as described in 2B01.a.2.a; *or*

b.3. Capable of receiving and processing CAD data as described in 2B01.a.2.b;

Note: 2B01.a does not control ''numerical control'' units and ''motion control boards'' if:

a. Modified for and incorporated in uncontrolled machines; *or*

b. Specially designed for uncontrolled machines.

c. Machine tools, as follows, for removing or cutting metals, ceramics or composites, which, according to the manufacturer's technical specifications, can be equipped with electronic devices for simultaneous ''contouring control'' in two or more axes:

Technical Note: a. The c-axis on jig grinders used to maintain grinding wheels normal to the work surface is not considered a contouring rotary axis.

b. Not counted in the total number of contouring axes are secondary parallel contouring axes, e.g., a secondary rotary axis, the center line of which is parallel to the primary rotary axis.

c. Axis nomenclature shall be in accordance with International Standard ISO 841, ''Numerical control Machines Axis and Motion Nomenclature.''

d. Rotary axes do not necessarily have to rotate over 360°. A rotary axis can be driven by a linear device, e.g., a screw or a rack-and-pinion.

c.1. Machine tools for turning, grinding, milling or any combination thereof that:

c.1.a. Have two or more axes that can be coordinated simultaneously for ''contouring control''; *and*

c.1.b. Have any of the following characteristics:

c.1.b.1. Two or more contouring rotary axes;

c.1.b.2. One or more contouring ''tilting spindles'';

Note: 2B01.c.1.b.2 applies to machine tools for grinding or milling only.

c.1.b.3. ''Camming'' (axial displacement) in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

Note: 2B01.c.1.b.3 applies to machine tools for turning only.

c.1.b.4. ''Run out'' (out-of-true running) in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

c.1.b.5. The ''positioning accuracies'', with all compensations available, are less (better) than:

c.1.b.5.a. 0.001° on any rotary axis; *or*

c.1.b.5.b.1. 0.004 mm along any linear axis (overall positioning) for grinding machines;

c.1.b.5.b.2. 0.006 mm along any linear axis (overall positioning) for milling or turning machines; *or*

Note: 2B01.c.1.b.5.b.2 does not control milling or turning machine tools with a positioning accuracy along one linear axis, with all compensations available, equal to or greater (worse) than 0.005 mm.

Technical Note: The positioning accuracy of ''numerically controlled'' machine tools is to be determined and presented in accordance with ISO/DIS 230/2, paragraph 2.13, in conjunction with the requirements below:

a. Test conditions (paragraph 3):

1. For 12 hours before and during measurements, the machine tool and accuracy measuring equipment will be kept at the same ambient temperature. During the premeasurement time, the slides of the machine will be continuously cycled identically to the way they will be cycled during the accuracy measurements;

2. The machine shall be equipped with any mechanical, electronic, or software compensation to be exported with the machine;

3. Accuracy of measuring equipment for the measurements shall be at least four times more accurate than the expected machine tool accuracy;

4. Power supply for slide drives shall be as follows:

a. Line voltage variation shall not be greater than ±10% of nominal rated voltage;

b. Frequency variation shall not be greater than ±2 Hz of normal frequency;

c. Lineouts or interrupted service are not permitted.

b. Test program (paragraph 4):

1. Feed rate (velocity of slides) during measurement shall be the rapid traverse rate;

Note: In the case of machine tools that generate optical quality surfaces, the feed rate shall be equal to or less than 50 mm per minute.

2. Measurements shall be made in an incremental manner from one limit of the axis travel to the other without returning to the starting position for each move to the target position;

3. Axes not being measured shall be retained at mid travel during test of an axis.

c. Presentation of test results (paragraph 2): The results of the measurement must include:

1. ''Positioning accuracy'' (A); *and*

2. The mean reversal error (B).

Note 1: 2B01.c.1 does not control cylindrical external, internal, and external-internal grinding machines having all of the following characteristics:

a. Not centerless (shoe-type) grinding machines;

b. Limited to cylindrical grinding;

c. A maximum workpiece outside diameter or length of 150 mm;

d. Only two axes which can be coordinated simultaneously for ''contouring control''; *and*

e. No contouring c axis.

Note 2: 2B01.c.1 does not control machines designed specifically as jig grinders having both of the following characteristics:

a. Axes limited to x, y, c and a, where the c-axis is used to maintain the grinding wheel normal to the work surface and the a-axis is configured to grind barrel cams; *and*

b. A spindle ''run out'' not less (not better) than 0.0006 mm.

Note 3: 2B01.c.1 does not control tool or cutter grinding machines having all of the following characteristics:

a. Shipped as a complete system with ''software'' specially designed for the production of tools or cutters;

b. No more than two rotary axes that can be coordinated simultaneously for ''contouring control'';

c. ''Run out'' (out-of-true running) in one revolution of the spindle not less (not better) than 0.0006 mm total indicator reading (TIR); *and*

d. The ''positioning accuracies'', with all compensations available, are not less (not better) than:

1. 0.004 mm along any linear axis for overall positioning; *or*

2. 0.001° on any rotary axis.

c.2. Electrical discharge machines (EDM):

c.2.a. Of the wire feed type that have five or more axes that can be coordinated simultaneously for ''contouring control'';

c.2.b. Non-wire EDMs that have two or more contouring rotary axes and that can be coordinated simultaneously for ''contouring control'';

c.3. Other machine tools for removing metals, ceramics or composites:

c.3.a. By means of:

c.3.a.1. Water or other liquid jets, including those employing abrasive additives;

c.3.a.2. Electron beam; *or*

c.3.a.3. ''Laser'' beam; *and*

c.3.b. Having two or more rotary axes that:

c.3.b.1. Can be coordinated simultaneously for ''contouring control''; *and*

c.3.b.2. Have a ''positioning accuracy'' of less (better) than 0.003°;

2B06A Dimensional inspection or measuring systems or equipment.

Requirements

Validated License Required: QSTVWYZ.

Unit: Number.

Reason for Control: NS and NP (see Note).

GLV: $0.

GCT: Yes, for 2B06.d only.

GFW: No.

GNSG: Yes for 2B06.a, b, and c, *except* Bulgaria, Romania, or Russia.

Note: NP controls apply to items described in 2B06.a, b or c.

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2B07A ''Robots'' or ''end-effectors'' and specially designed controllers therefor.

Requirements

Validated License Required: QSTVWYZ.

Unit: $ value.

Reason for Control: NS and NP (see Note).

GLV: $5,000, except for $0 for NP (see Note).

GCT: Yes, except NP (see Note).

GFW: No.

GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see Note)

Note: NP controls apply to 2B07.b robots, to specially designed or rated as radiation hardened robots to withstand greater than 5×10^4 grays (Silicon) (5×10^6 rad (Silicon)) without operational degradation, and to specially designed controllers and ''end-effectors'' therefor.

* * * * *

2B08A Assemblies, units or inserts specially designed for machine tools, or for equipment controlled by 2B06 or 2B07.

Requirements

Validated License Required: QSTVWYZ.

Unit: $ value.

Reason for Control: NS.

GLV: $0.

GCT: No.

GFW: No.

List of Items Controlled

a. Spindle assemblies, consisting of spindles and bearings as a minimal assembly, with radial (''run out'') or axial (''camming'') axis motion in one revolution of the spindle less (better) than 0.0006 mm total indicator reading (TIR);

b. Linear position feedback units, e.g., inductive type devices, graduated scales, infrared systems or ''laser'' systems, having with compensation an overall ''accuracy'' less (better) than $(800 + (600 \times L \times 10^{-3}))$nm (L equals the effective length in millimeters of the linear measurement);

c. Rotary position feedback units, e.g., inductive-type devices, graduated scales, ''laser'', or infrared systems, having with compensation an ''accuracy'' less (better) than 0.00025° of arc;

d. Slide way assemblies consisting of a minimal assembly of ways, bed and slide having all of the following characteristics:

d.1. A yaw, pitch or roll of less (better) than 2 seconds of arc total indicator reading (reference: ISO/DIS 230–1) over full travel;

d.2. A horizontal straightness of less (better) than 2 micrometer per 300 mm length; *and*

d.3. A vertical straightness of less (better) than 2 micrometer over full travel per 300 mm length;

e. Single point diamond cutting tool inserts, having all of the following characteristics:

e.1. Flawless and chip-free cutting edge when magnified 400 times in any direction;

e.2. Cutting radius out-of-roundness less (better) than 0.002 mm total indicator reading (TIR) (also peak-to-peak); *and*

e.3. Cutting radius from 0.1 to 5 mm inclusive;

Note: This ECCN does not control measuring interferometer systems, without closed or open loop feedback, containing a ''laser'' to measure slide movement errors of machine-tools, dimensional inspection machines or similar equipment.

2B09A Specially designed printed circuit boards with mounted components and software therefor, or ''compound rotary tables'' or ''tilting spindles'', capable of upgrading, according to the manufacturer's specifications, ''numerical control'' units, machine tools or feed-back devices to or above the levels specified in ECCNs 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, and 2B08.

Requirements

Validated License Required: QSTVWYZ.

Unit: $ value.

Reason for Control: NS.

GLV: $0.

GCT: No.

GFW: No.

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2B41B ''Numerically controlled'' machine tools not controlled by ECCN 2B01A.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

Numerically controlled machine tools for vertical or horizontal turning, milling, or boring that, according to the manufacturer's technical specifications, can be equipped with ''numerical control'' units controlled for export under ECCN 2B01A (even if not equipped with such units at the time of delivery) and that have:

a. Turning machines or combination turning/milling machines which are capable of machining diameters greater than 2.5 m.

2B50B Flow forming machines and spin forming machines capable of flow forming functions, and mandrels.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NP, MT (see Notes).
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes, for 2B50.a and .b only.

Notes: 1. MT controls apply to items described by 2B50.a.2, except those that are not usable in the production of propulsion components and equipments (e.g., motor cases) for ''missile'' systems.

2. NP controls apply to items described by 2B50.a.1 and .b.

List of Items Controlled

a. Spin-forming and flow-forming machines, and specially designed components therefor, that according to the manufacturer's technical specifications, can be equipped with ''numerical control'' units or a computer control; *and*

1. Have three or more rollers (active or guiding); *and*

Note: This entry includes machines which have only a single roller designed to deform metal plus two auxiliary rollers which support the mandrel, but do not participate directly in the deformation process.

2. Have two or more axes that can be coordinated simultaneously for ''contouring control''.

b. Rotor-forming mandrels designed to form cylindrical rotors of inside diameter between 75 mm (3 in.) and 400 mm (16 in.).

Note: The only spin-forming machines controlled by this ECCN 2B50B are those capable of flow forming functions.

2D01A ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of equipment controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, or 2B09.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS, MT, and NP (see *Notes*).
GTDR: Yes, except MT and NP (see *Notes*).
GTDU: No.
GNSG: Yes for software for 2B01, 2B06.a, .b, and .c, and 2B07.b and .c, (see Notes), *except* to Bulgaria, Romania, or Russia. ''Software'' (including documentation) for ''numerical control'' units must be:

a. In machine executable form only; *and*

b. Limited to the minimum necessary for the use (i.e., installation, operation, and maintenance) of the units.

Notes: 1. MT controls apply to ''software'' specially designed or modified for the ''development'', ''production'', or ''use'' of equipment described in 2B04.

2. NP controls apply to ''software'' described in this ECCN for the ''development'', ''production'', or ''use'' of equipment described in ECCNs 2B01, 2B04, 2B06.a, .b, and .c, and 2B07.b and .c. Specially designed ''software'' for the systems described in 2B06.c includes ''software'' for simultaneous measurements of wall thickness and contour.

2D19A ''Software'' for the ''development'', ''production'', or ''use'' of equipment controlled by 2A19.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS, NP (see *Note*).
GTDR: No.
GTDU: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Note*)

Note: NP controls apply to Country Groups QSTVWYZ for ''software'' for the ''development'', ''production'', or ''use'' of neutron generator systems and valves described in 2A19.b and c, respectively.

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2D49E ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of equipment controlled by 2A49E.

Requirements

Validated License Required: SZ, and countries listed in Supp. No. 4 to Part 778.
Unit: $ value.
Reason for Control: NP.
GTDR: No.
GTDU: Yes, except destinations listed under *Validated License Required:*

2D50B ''Software'' specially designed or modified for the ''development'', ''production'' or ''use'' of equipment controlled by 2A50 or 2B50.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NP, MT (see Notes).
GTDR: No.
GTDU: No
GNSG: Yes, for NP only (see Note).

Note: 1. NP controls apply to ''software'' specially designed or modified for the ''development'', ''production'' or ''use'' of items controlled by 2A50 and 2B50.a and .b.

2. MT controls apply to 'software' specially designed or modified for the ''development'', ''production'' or ''use'' of items controlled by 2B50.a, except those that are not usable in the production of propulsion components and equipments (e.g., motor cases) for ''missile'' systems.

2E01A Technology according to the General Technology Note for the ''development'' of equipment or ''software'' controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, 2B09, 2D01, or 2D02.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, MT, NP (see Notes).
GTDR: Yes, except MT and NP (see Notes).
GTDU: No.
GNSG: Yes for NP, *except* technology for 2B04 (see Notes) and *except* Bulgaria, Romania, or Russia.

Notes: 1. MT controls apply to technology for the ''development'' of commodities controlled by 2B04.

2. NP controls apply to technology for the ''development'' of commodities controlled by 2B01, 2B04, 2B06.a, .b, and .c, and 2B07.b

and .c, and technology for the ''development'' of ''software'' controlled by 2D01 for NP reasons.

Related ECCNs: See 2E40B for NP controls on technology for the ''use'' of equipment controlled by 2B04, 2B06.a, b, or c, or 2B07.b.

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2E02A Technology according to the General Technology Note for the ''production'' of equipment controlled by 2A01, 2A02, 2A03, 2A04, 2A05, 2A06, 2B01, 2B02, 2B03, 2B04, 2B05, 2B06, 2B07, 2B08, or 2B09.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, MT, NP (see *Notes*).
GTDR: Yes, except MT and NP (see *Notes*).
GTDU: No.
GNSG: Yes for NP, *except* technology for 2B04 (see *Notes*) and *except* Bulgaria, Romania, or Russia.

Notes: 1. MT controls apply to technology for the ''production'' of commodities controlled by 2B04.
2. NP controls apply to technology for the ''production'' of commodities controlled by 2B01, 2B04, 2B06.a, .b, and .c, and 2B07 .b and .c.

Related ECCNs: See 2E40B for NP controls on technology for the ''use'' of equipment controlled by 2B04, 2B06.a, b, or c, or 2B07.b.

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2E03A Other technology.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, NP (see *Note*).
GTDR: Yes, *except* 2E03.a, a.3, b, and d.
GTDU: No.
GNSG: Yes *except* Bulgaria, Romania, or Russia, for 2E03.a and a.3 only (see *Note*).

Note: NP controls apply to technology described in 2E03.a or a.3.

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2E19A Technology for the ''development'', ''production'', or ''use'' of equipment controlled by 2A19.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, NP (see *Note*).
GTDR: No.
GTDU: No.
GNSG: Yes *except* Bulgaria, Romania, or Russia.

Note: NP controls apply to Country Groups QSTVWYZ for technology for the ''development'', ''production'', or ''use'' of neutron generator systems and valves described in 2A19.b and c, respectively.

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2E49E Technology for the ''development'', ''production'', or ''use'' of equipment controlled by 2A49E.

Requirements

Validated License Required: SZ and countries listed in Supp. No. 4 to Part 778.
Reason for Control: NP.
GTDR: No.
GTDU: Yes, except destinations listed under *Validated License Required*.

2E50B Technology for the ''development'', ''production'' or ''use'' of equipment controlled by 2A50 or 2B50.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NP, MT (see Notes).
GTDR: No.
GTDU: No.
GNSG: Yes, for NP only.

Notes: 1. MT controls apply to ''technology'' specially designed or modified for the ''development'', ''production'' or ''use'' of items described by 2B50.a.2, except those that are not usable in the production of propulsion components and equipments (e.g., motor cases) for ''missile'' systems.
2. NP controls apply to ''technology'' specially designed or modified for the ''development'', ''production'' or ''use'' of items controlled by 2B50.a.1 and .b.

5. In Category 3, (Electronics Design, Development and Production), ECCNs 3A01A, 3D01A, and 3E01A are amended by revising the Requirements sections to read as follows:

3A01A Electronic devices and components.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number.
Reason for Control: NS, MT, NP (see Notes).
GLV: $1,500: 3A01.c; $3,000: 3A01.b.1 to b.3, 3A01.d to 3A01.f; $5,000: 3A01.a, 3A01.b.4 to b.7.
GCT: Yes, except 3A01.a.1.a and 3A01.e.5 (see *Notes*).
GFW: Yes, except 3A01.a.1.a, 3A01.b.1 and b.3 to b.7, 3A01.c to f.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see *Notes*).

Notes: 1. MT controls apply to 3A01.a.1.a.
2. NP controls apply to 3A01.e.5.

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3D01A ''Software'' specially designed for the ''development'' or ''production'' of equipment controlled by 3A01.b to 3A01.f, 3A02, and 3B01.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS, NP (see *Note*).
GTDR: Yes, except 3A01.e.5 (see *Note*).
GTDU: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for ''software'' for 3A01.e.5 only (see *Note*).

Note: NP controls apply to ''software'' for the ''development'' or ''production'' of items controlled by 3A01.e.5.

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3E01A Technology according to the General Technology Note for the ''development'' or ''production'' of equipment or materials controlled by 3A01, 3A02, 3B01, 3C01, 3C02, 3C03, or 3C04.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ value.
Reason for Control: NS, MT, and NP (see *Notes*).
GTDR: Yes, except MT and NP.
GTDU: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for technology for 3A01.e.5 only (see *Notes*).

Note 1: MT controls apply to technology specially designed for the ''development'' or ''production'' of items described in 3A01.a.1.a.
Note 2: NP controls apply to technology specially designed for the ''development'' or ''production'' of items described in 3A01.e.5.
Note 3: 3E01 does not control technology for the ''development'' or ''production'' of:
a. Microwave transistors operating at frequencies below 31 GHz;
b. Integrated circuits controlled by 3A01.a.3 to a.11, having both of the following characteristics:
1. Using technology of one micrometer or more, and
2. Not incorporating multi-layer structures.

N.B.: This Note does not preclude the export of multilayer technology for devices incorporating a maximum of two metal layers and two polysilicon layers.

* * * * *

In Category 6 (Sensors), ECCN 6A43B is revised, and ECCNs 6A03A, 6A05A, 6E01A and 6E02A are amended by revising the Requirements sections as follows:

6A03A Cameras.

Requirements

Validated License Required: QSTVWYZ.

Unit: Number.
Reason for Control: NS, FP and NP (see *Notes*).
GLV: $1,500, except $0 for 6A03.a.2 through a.5, b.1, b.3 and b.4.
GCT: Yes, except NP and FP (see *Notes*).
GFW: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see Notes).

Notes: 1. FP controls for regional stability apply to items controlled in 6A03.b.3 and b.4.

2. NP controls apply to items controlled in 6A03.a.2, a.3, a.4, a.5 and b.1.

3. The items listed in 6A03.b.3 and b.4 are subject to the United Nations Security Council arms embargo against Rwanda described in § 785.4(a) of this subchapter.

* * * * *

6A05A ''Lasers'', components and optical equipment, as follows.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NS, NP (see Note).
GLV: $0 for NP items (see Note); $3,000 for all other items.
GCT: Yes, except NP (see Note).
GFW: Yes, except NP (see Note), for items in Advisory Notes 5.3 and 5.4.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see Note).

Note: NP controls apply to lasers described in 6A05.a.1.c, a.2.a, a.4.c, a.6 (argon ion lasers only), a.7.b, c.1.b, c.2.c.2, c.2.c.3, c.2.d.2, and d.2.c.

Related ECCNs: See 6A50B for NP controls on lasers, laser amplifiers, and oscillators not controlled by 6A05A.

* * * * *

6A43B Cameras and components not controlled by ECCN 6A03A.

Requirements

Validated License Required: QSTVWYZ.
Unit: Number; $ value for parts and accessories.
Reason for Control: NP.
GLV: $0.
GCT: No.
GFW: No.
GNSG: Yes.

List of Items Controlled

a. Mechanical rotating mirror cameras, as follows; and specially designed components therefor:

a.1. Framing cameras with recording rates greater than 225,000 frames per second;

a.2. Streak cameras with writing speeds greater than 0.5 mm per microsecond;

Technical Note: Components of such cameras include their synchronizing electronics units and rotor assemblies consisting of turbines, mirrors, and bearings.

b. Electronic streak and framing cameras and tubes, as follows:

b.1. Electronic streak cameras capable of 50 ns or less time resolution and streak tubes therefor;

b.2. Electronic (or electrically shuttered) framing cameras capable of 50 ns or less frame exposure time;

b.3. Framing tubes and solid state imaging devices for use with cameras described in 6A43.b.2, as follows:

b.3.a. Proximity focused image intensifier tubes having a photocathode deposited on a transparent conductive coating to decrease photocathode sheet resistance;

b.3.b. Gated silicon intensifier target (SIT) vidicon tubes, where a fast system allows gating the photoelectrons from the photocathode before they impinge on the SIT plate;

b.3.c. Kerr or pocket cell electro-optical shuttering; *or*

b.3.d. Other framing tubes and solid-state imaging devices having a fast-image gating time of less than 50 ns specially designed for cameras controlled by 6A43.b.2;

c. Radiation-hardened Television cameras, or lenses therefor, specially designed or rated as radiation hardened to withstand greater than 5×10^4 grays (Silicon) (5×10^6 rad (Silicon)) without operational degradation.

6E01A Technology according to the General Technology Note for the ''development'' of equipment, materials or ''software'' controlled by 6A01, 6A02, 6A03, 6A04, 6A05, 6A06, 6A07, 6A08, 6B04, 6B05, 6B07, 6B08, 6C02, 6C04, 6C05, 6D01, 6D02, or 6D03.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, MT, NP, and FP (see Notes).
GTDR: Yes, except MT, NP, and FP (see Notes).
GTDU: No.
GNSG: Yes, *except* Bulgaria, Romania, or Russia, for NP only (see Notes).

Notes: 1. MT controls apply to technology for the ''development'' of equipment controlled by 6A02.a, a.3, or a.4, 6A07.b or c, or 6A08. MT controls on technology for 6A08 equipment apply only when the equipment is designed for airborne applications and is usable in the systems described in § 778.7(a) of this subchapter.

2. FP controls for regional stability apply to technology for the ''development'' of items controlled by 6A02.a, a.2, a.3, or c and 6A03.b.3 and b.4 (see § 776.16(b) of this subchapter).

3. FP controls for human rights apply to all destinations except Australia, Japan, New Zealand, and members of NATO for technology for the ''development'' of police-model infrared viewers controlled by 6A02.c (see § 776.14 of this subchapter).

4. NP controls apply to technology for the ''development'' of equipment controlled by 6A03.a.2, a.3, a.4, a.5, or b.1 or 6A05.a.1.c., a.2.a, a.4.c, a.6 (argon ion lasers only), a.7.b, c.1.b, c.2.c.2, c.2.c.3, c.2.d.2, or d.2.c.

5. Technology for the ''development'' of items controlled by 6A02.a, a.2, a.3, or c and 6A03.b.3 or b.4 is subject to the United Nations Security Council arms embargo against Rwanda described in § 785.4(a) of this subchapter.

Related ECCNs: See 6E21B for MT controls on technology for the ''development'' of equipment controlled by 6A22, 6A28, 6A29, or 6A30. See 6E40B for NP controls on technology for the ''use'' of cameras or lasers controlled by 6A03 or 6A05, respectively. See 6E41B for NP controls on technology for the ''development'', ''production'', or ''use'' of cameras or lasers controlled by 6A43 or 6A50, respectively.

* * * * *

6E02A Technology according to the General Technology Note for the ''production'' of equipment or materials controlled by 6A01, 6A02, 6A03, 6A04, 6A05, 6A06, 6A07, 6A08, 6B04, 6B05, 6B07, 6B08, 6C02, 6C04, or 6C05.

Requirements

Validated License Required: QSTVWYZ.
Reason for Control: NS, MT, NP, and FP (see Notes).
GTDR: Yes, *except* MT, NP, and FP (see Notes).
GTDU: No.
GNSG: Yes, *except* Bulgaria, Rumania, or Russia, for NP only (see Notes).

Notes:

1. MT controls apply to technology for the ''production'' of equipment controlled by 6A02.a, a.3, or a.4, 6A07.b or c, or 6A08. MT controls on technology for 6A08 equipment apply only when the equipment is designed for airborne applications and is usable in the systems described in § 778.7(a) of this subchapter.

2. FP controls for regional stability apply to technology for the ''development'' of items controlled by 6A02.a, a.2, a.3, or c and 6A03.b.3 and b.4 (see § 776.16(b) of this subchapter).

3. FP controls for human rights apply to all destinations except Australia, Japan, New Zealand, and members of NATO for technology for the ''development'' of police-model infrared viewers controlled by 6A02.c (see § 776.14 of this subchapter).

4. NP controls apply to technology for the ''development'' of equipment controlled by 6A03.a.2, a.3, a.4, a.5, or b.1 or 6A05.a.1.c., a.2.a, a.4.c, a.6 (argon ion lasers only), a.7.b, c.1.b, c.2.c.2, c.2.c.3, c.2.d.2, or d.2.c.

5. Technology for the ''development'' of items controlled by 6A02.a, a.2, a.3, or c and

6A03.b.3 or b.4 is subject to the United Nations Security Council arms embargo against Rwanda described in § 785.4(a) of this subchapter.

Related ECCNs: See 6A22B for MT controls on technology for the ''production'' of equipment controlled by 6A22, 6A28, 6A29, or 6A30. See 6E40B for NP controls on technology for the ''use'' of cameras or lasers controlled by 6A03 or 6A05, respectively. See 6E41B for NP controls on technology for the ''development'', ''production'', or ''use'' of cameras or lasers controlled by 6A43 or 6A50, respectively.

* * * * *

7. In Category 9 (Propulsion systems and transportation equipment), ECCN 9B26B is revised, as follows:

9B26B Vibration test systems, equipment, and components therefor.

Requirements

Validated License Required: QSTVWYZ.
Unit: $ Value.
Reason for Control: MT, NP (See *Notes*).
GLV: $0 for 9B26.a; $3,000 for 9B26.b.
GCT: No.
GFW: No.
GNSG: No.

Notes: 1. NP controls apply to 9B26.a, and in paragraph 9B26.a NP controls only apply to *electrodynamic* vibration test systems meeting all of the parameters in paragraph 9B26.a.1.

2. MT controls apply to 9B26.a and .b, and in paragraph 9B26.a MT controls only apply to vibration test systems employing feedback or closed loop techniques and incorporating a digital controller, capable of vibrating a system at 10 g RMS or more *over the entire range* 20 Hz to 2,000 Hz and imparting forces of 50 kN (11,250 lbs.), measured ''bare table'', or greater.

List of Items Controlled

a. Vibration test systems and components therefor, as follows:

a.1. Vibration test systems employing feedback or closed loop techniques and incorporating a digital controller, capable of vibrating a system at 10 g RMS or more between 20 Hz and 2,000 Hz and imparting forces of 50 kN (11,250 lbs.), measured ''bare table'', or greater;

a.2. Digital controllers, combined with specially designed vibration test software, with a real-time bandwidth greater than 5 kHz and designed for use with vibration test systems described in 9B26.a.1;

a.3. Vibration thrusters (shaker units), with or without associated amplifiers, capable of imparting a force of 50 kN (11,250 lbs.), measured ''bare table'', or greater, which are usable for the vibration test systems described in 9B26.a.1;

a.4. Test piece support structures and electronic units designed to combine multiple shaker units into a complete shaker system capable of providing an effective combined force of 50 kN, measured ''bare table'', or greater, and usable in vibration test systems described in 9B26a.1.

Note: The term ''digital control'' refers to equipment, the functions of which are, partly or entirely, automatically controlled by stored and digitally coded electrical signals.

b. Environmental chambers and anechoic chambers.

b.1. Environmental chambers and anechoic chambers capable of simulating the following flight conditions:

b.1.a. Altitude of 15,000 meters or greater; or

b.1.b. Temperature of at least minus 50 degrees C to plus 125 degrees C; and either

b.1.c. Vibration environments of 10 g RMS or greater between 20 Hz and 2,000 Hz imparting forces of 5 kN or greater, for environmental chambers; or

b.1.d. Acoustic environments at an overall sound pressure level of 140 dB or greater (referenced to 2×10^{-5} N per square meter) or with a rated power output of 4 kiloWatts or greater, for anechoic chambers.

Dated: January 24, 1996.

Sue E. Eckert,

Assistant Secretary for Export Administration.

[FR Doc. 96–1575 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 93–96]

RIN 1515–AB31

Reporting Requirements for Vessels, Vehicles, and Individuals; Correction

AGENCY: Customs Service, Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations (T.D. 93–96), which were published on Tuesday, December 21, 1993 (58 FR 67312). The regulations related to the reporting requirements for vessels, vehicles, and individuals.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Larry L. Burton, Attorney, Entry and Carrier Rulings Branch (202) 482–6933.

SUPPLEMENTARY INFORMATION:

Background

On Tuesday, December 21, 1993, Customs published a document in the Federal Register (T.D. 93–96, 58 FR 67312), that amended the Customs Regulations to implement certain provisions of the Customs Enforcement Act of 1986, a part of the Anti-Drug Abuse Act of 1986, designed to strengthen Federal efforts to improve the enforcement of Federal drug laws and enhance the interdiction of illegal drug shipments. The regulatory changes pertained to the arrival, entry, and departure reporting requirements applicable to vessels, vehicles, and individuals, and informed the public regarding applicable penalty, seizure and forfeiture provisions for violation of the provisions.

As set forth in the Federal Register, the document contained an error in an amendatory instruction resulting in the inadvertent removal of two paragraphs from § 4.30(a). At the time the document was published, § 4.30(a) consisted of three paragraphs: introductory paragraph (a), paragraph (a)(1), and paragraph (a)(2). The amendatory instruction which was in error stated that paragraph (a) was being revised, rather than stating that introductory paragraph (a) was being revised. Because only the text of introductory paragraph (a) followed that instruction, paragraphs (a)(1) and (a)(2) were deleted from future editions of the Customs Regulations (19 CFR). The intent of Customs was to revise the language of introductory paragraph (a), but to retain paragraphs (a)(1) and (a)(2). This document corrects that error by reinserting those two paragraphs.

List of Subjects in 19 CFR Part 4

Cargo vessels, Coastal zone, Customs duties and inspection, Fishing vessels, Harbors, Imports, Maritime carriers, Passenger vessels, Reporting and recordkeeping requirements, Seamen, Vessels, Yachts.

Amendments to the Regulations

Accordingly, Title 19, Chapter I, part 4 of the Customs Regulations (19 CFR part 4) is corrected by making the following amendments:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 and the specific authority citation for § 4.30 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1434, 1624; 46 U.S.C. App. 3, 91;

* * * * *

Section 4.30 also issued under 19 U.S.C. 288, 1433, 1446, 1448, 1450–1454, 1490;

* * * * *

2. Section 4.30(a) is amended by adding paragraphs (a)(1) and (a)(2) to read as follows:

§ 4.30 Permits and special licenses for unlading and lading.

(a) * * *

(1) U.S. and foreign vessels arriving at a U.S. port directly from a foreign port or place are required to make entry, whether it be formal or, as provided in § 4.8, preliminary, before the port director may issue a permit or special license to lade or unlade.

(2) U.S. vessels arriving at a U.S. port from another U.S. port at which formal entry was made may be issued a permit or special license to lade or unlade without having to make either preliminary or formal entry at the second and subsequent ports. Foreign vessels arriving at a U.S. port from another U.S. port at which formal entry was made may be issued a permit or special license to lade or unlade at the second and subsequent ports prior to formal entry without the necessity of making preliminary entry. In these circumstances, after the master has reported arrival of the vessel, the port director may issue the permit or special license or may, in his discretion, require the vessel to be boarded, the master to make an oath or affirmation to the truth of the statements contained in the vessel's manifest to the Customs officer who boards the vessel, and require delivery of the manifest prior to issuing the permit.

* * * * *

Dated: January 26, 1996.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 96–2063 Filed 1–31–96; 8:45 am]

BILLING CODE 4820–02–P

19 CFR Part 132

[T.D. 96–12]

RIN 1515–AB73

Export Certificates for Beef Subject to Tariff-Rate Quota

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, without change, the interim amendment to the Customs Regulations setting forth the form and manner by which an importer may make a declaration that a valid export certificate is in effect for imported beef which is the subject of a tariff-rate quota and the product of a participating country, as defined in regulations of the United States Trade Representative, in accordance with the Uruguay Round Agreements Act.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Karen Cooper, Quota Branch, (202) 927–5401.

SUPPLEMENTARY INFORMATION:

Background

As a result of the Uruguay Round Agreements, approved by Congress in § 101 of the Uruguay Round Agreements Act (Pub. L. 103–465), the President, by Presidential Proclamation No. 6763, established a tariff-rate quota for imported beef.

The specific imported beef, as well as the various countries eligible for the in-quota tariff rate are set forth in Additional U.S. Note 3, Schedule XX, Chapter 2, of the Harmonized Tariff Schedule of the United States. The eligible countries which may export such beef to the United States and avail themselves of the preferential, in-quota tariff rate include Australia, New Zealand and Japan.

As part of the implementation of the tariff-rate quota for beef, the United States, specifically, the United States Trade Representative (USTR), offered these exporting countries that have an allocation of the in-quota quantity the opportunity to use export certificates for their qualifying beef exports to the United States. Although countries that have an allocation of the in-quota quantity are referred to in the statutory law as ''participating countries'', for purposes of the interim rule and now for this final rule, a participating country constitutes an allocated country that has been authorized to participate in the export certificate program. To this end, New Zealand has requested the opportunity to participate in this program.

An exporting country using export certificates in this regard must notify the USTR and provide the necessary supporting information. Customs is then responsible for ensuring that no imports of beef from that country are counted against the country's in-quota allocation unless such beef is covered by a proper export certificate.

Accordingly, the USTR undertook rulemaking in this matter (15 CFR 2012.2 and 2012.3).

In addition, Customs issued an interim rule published in the Federal Register (60 FR 39108) on August 1, 1995, in order to set forth the form and manner by which an importer declares that a valid export certificate exists, including a unique number therefor which must be referenced on the entry, or withdrawal from warehouse, for consumption. This interim rule also included a record retention period for the certificate and required the submission of such certificate to Customs upon request.

No comments were received from the public in response to the invitation therefor set forth in the interim rule, and Customs has determined to adopt this rule as a final rule without change.

Executive Order 12866 and Regulatory Flexibility Act

Because this document involves a foreign affairs function of the United States and implements an international agreement, it is not subject to E.O. 12866. Because no notice of proposed rulemaking was required in this case, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Drafting Information

The principal author of this document was Russell Berger, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 132

Customs duties and inspection, Imports, Postal service, Quotas.

Amendment to the Regulations

PART 132—QUOTAS

Accordingly, the interim rule amending 19 CFR part 132 to add a new § 132.15, which was published in the Federal Register at 60 FR 39108 on August 1, 1995, is adopted as a final rule without change.

George J. Weise,

Commissioner of Customs.

Approved: December 22, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 96–1992 Filed 1–31–96; 8:45 am]

BILLING CODE 4820–02–P

19 CFR Part 148

[T.D. 96–13]

Changes to Customs List of Designated Public International Organizations

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by updating Customs list of designated public international organizations entitled to certain free entry privileges provided for under provisions of the International Organizations Immunities Act. The last time the list was updated was in 1993 and since then the President has issued several Executive Orders which designate certain organizations as entitled to this free entry privilege. Accordingly, Customs deems it appropriate to update the list at this time.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Dennis Sequeira, Director, International Organizations & Agreements Division, Office of International Affairs, (202) 927–1480.

SUPPLEMENTARY INFORMATION:

Background

The International Organizations Immunities Act, 22 U.S.C. 288, generally provides that certain international organizations, agencies, and committees, those in which the United States participates or otherwise has an interest and which have been designated by the President through appropriate Executive Order as public international organizations, are entitled to enjoy certain privileges, exemptions, and immunities conferred by the Act. The Department of State lists the public international organizations, designated by the President as entitled to enjoy any measure of the privileges, exemptions, and immunities conferred by the Act, in the notes following the provisions of Section 288.

One of the privileges provided for under the Act is that the baggage and effects of alien officers, employees, and representatives—and their families, suites, and servants—to the designated organization, are admitted free of duty and without entry. Those designated organizations entitled to this duty-free entry privilege are delineated at § 148.87(b), Customs Regulations (19 CFR 148.87(b)). Thus, the list of public international organizations maintained by Customs is for the limited purpose of identifying those organizations entitled to the duty-free entry privilege; it does not necessarily include all of the international organizations that are on the list maintained by the Department of State, which delineates all of the international organizations designated by the President regardless of the extent of the privileges conferred.

Since the last revision of § 148.87(b) in 1993 (T.D. 93–45), four Executive Orders have been issued designating certain organizations as public international organizations. Collectively, these Executive Orders add 7 international organizations to Customs list of public international organizations entitled to the duty-free entry privilege—bringing the total of designated international organizations to 68, as follows:

1. Executive Order 12842 of March 29, 1993, 58 FR 17081, 3 CFR 1993 Comp., p. 592, 29 Weekly Comp. Pres. Doc. 505, designated the International Development Law Institute;

2. Executive Order 12894 of January 26, 1994, 59 FR 4237, 3 CFR 1994 Comp., p. 857, 30 Weekly Comp. Pres. Doc. 159, designated the North Pacific Marine Science Organization;

3. Executive Order 12895 of January 26, 1994, 50 FR 4237, 3 CFR 1994 Comp., p. 857, 30 Weekly Comp. Pres. Doc. 159, designated the North Pacific Anadromous Fish Commission; and

4. Executive Order 12904 of March 16, 1994, 59 FR 13179, 3 CFR 1994 Comp., p. 880, 30 Weekly Comp. Pres. Doc. 550, designated the Commission for Environmental Cooperation, the Commission for Labor Cooperation, the Border Environment Cooperation Commission, and the North American Development Bank pursuant to the North American Free Trade Agreement Implementation Act.

Inapplicability of Public Notice and Comment Requirements, Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Because this amendment merely corrects the listing of designated organizations entitled by law to free entry privileges as public international organizations, pursuant to 5 U.S.C. 553(b)(B), good cause exists for dispensing with notice and public procedure thereon as unnecessary. For the same reason, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d) (1) and (3). Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Drafting Information

The principal author of this document was Gregory R. Vilders, Attorney, Regulations Branch, Office of Regulations and Rulings.

List of Subjects in 19 CFR Part 148

Foreign officials, Government employees, International organizations, Privileges and immunities, Taxes.

Amendment to the Regulations

For the reasons stated above, part 148, Customs Regulations (19 CFR part 148), is amended as set forth below:

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The general authority citation for part 148 is revised to read as follows:

Authority: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 20, Harmonized Tariff Schedule of the United States);

* * * * *

2. Section 148.87(b) is amended by adding the following, in appropriate alphabetical order, to the table, to read as follows:

§ 148.87 Officers and employees of, and representatives to, public international organizations.

* * * * *

(b) * * *

Organization	Executive order	Date
* *	*	* *
Border Environmental Cooperation Commission.	12904	Mar. 16, 1994.
* *	*	* *
Commission for Environmental Cooperation.	12904	Mar. 16, 1994.
* *	*	* *
Commission for Labor Cooperation.	12904	Mar. 16, 1994.
* *	*	* *
International Development Law Institute.	12842	Mar. 29, 1993.
* *	*	* *
North American Development Bank.	12904	Mar. 16, 1994.
* *	*	* *
North Pacific Anadromous Fish Commission.	12895	Jan. 26, 1994.
* *	*	* *
North Pacific Marine Science Organization.	12894	Jan. 26, 1994.

* * * * *

George J. Weise,
Commissioner of Customs.

Approved: December 22, 1995.

John P. Simpson,
Deputy Assistant Secretary of the Treasury.

[FR Doc. 96–1991 Filed 1–31–96; 8:45 am]
BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 80

[Docket No. 94C–0041]

Color Additive Certification; Increase in Fees For Certification Services

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations by increasing the fees for certification services. The change in fees will allow FDA to continue to maintain an adequate color certification program as required by the Federal Food, Drug, and Cosmetic Act (the act). The fees are intended to recover the full costs of operation of FDA's color certification program, including the unfunded liability of the Civil Service Retirement Fund and the appropriate overhead costs of the Public Health Service (PHS) and the Department of Health and Human Services (DHHS).

DATES: Effective March 4, 1996.

FOR FURTHER INFORMATION CONTACT: David R. Petak, Accounting Branch (HFA–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1766.

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of November 29, 1994 (59 FR 60898), FDA issued an interim rule to amend the color additive regulations by increasing the fee for certification services. The change in fees was necessary so that FDA could recover the full costs of operation of its color certification program, including the unfunded liability of the Civil Service Retirement Fund and the appropriate overhead costs of PHS and DHHS. The fee schedule in effect before publication of the interim rule had been in place since 1982. While costs of the certification program have increased through the years, until 1991, the steady growth of the color additive market and corresponding increase in the batches certified generated sufficient revenue to cover these increased costs. The fee schedule is designed to cover the costs involved in the certifying of batches of color additive. These costs include both the cost of specific tests required by the regulations and the general costs associated with the certification program, such as costs of accounting, reviewing data, issuing certificates, and conducting research and establishment inspections.

Since 1991, however, the volume of batches certified has leveled off, while the costs have continued to rise at approximately 10 percent per year. Moreover, the old fee schedule did not reflect all applicable overhead costs for the program. It did not reflect the costs of management support provided by both PHS and DHHS, personnel costs for the unfunded liability portion of the Civil Service Retirement Fund, and ancillary costs of space, equipment, travel, and supplies. The agency announced in the November 1994 notice that it concluded that it is necessary to include these costs in the calculation of the fees to ensure that the fees fully cover the costs of certification. Because section 721(e) of the act (21 U.S.C. 379e(e)) requires payment of such fees necessary to provide, maintain, and equip an adequate certification service, an immediate increase was necessary.

The fee for straight colors including lakes is $.30 per pound (a $.05 per pound increase) with a minimum fee of $192. There are similar increases in fees for repacks of certified color additives and color additive mixtures. In addition, the interim rule announced the agency's tentative conclusion that fees would increase at a rate that is proportional to Federal salary increases, commencing with pay raises on or after January 1, 1996. This provision would permit FDA to set initial fees lower than they would otherwise be set. Interested persons were given until February 13, 1995, to comment on the interim rule. One letter was received in response to the interim rule from the International Association of Color Manufacturers (IACM). A description of the comment and the agency's response is as follows.

II. Comment

IACM, a trade association representing firms that manufacture certified color additives for use in foods, drugs, cosmetics, and medical devices, objected to the fee escalation provision, supported refunds of surplus fees, and suggested alternatives to the certification program.

In support of its objection to the escalator provision, IACM stated that it was opposed to an automatic annual increase in the color certification fees because it was contrary to section 721(e) of the act. IACM argued that Congress clearly intended that such fee increases would have to be specified in a proposed regulation with an opportunity for public notice and comments. IACM further stated that the fee study that FDA made available does not support the need for automatic fee increases and requested clarification of all the factors (e.g., local pay rate increase) that FDA intended to use as a basis for the automatic fee increase. IACM also requested more time to comment on these factors. In addition, IACM supported refunds of surplus fees but requested that FDA include a statement that it is ''* * * committed to making refunds.'' Lastly, IACM suggested that, in light of FDA's decision to increase the fee and provide for an automatic fee escalator, FDA should consider alternative methods of certification such as certifying private laboratories or certifying an individual company to conduct its own certification.

After due consideration FDA finds that it is persuaded by IACM's comments in support of its objection to the escalator provision, and the agency will not implement this provision. The agency will continue with its past policy of monitoring color certification costs and set fees as required by section 721(e) of the act as necessary to provide, maintain, and equip an adequate certification service. FDA will continue to closely monitor the certification fee structure and will continue with its policy of refunding any excess of funds in proportion to workload of each company that sought color certification. Accordingly, FDA is removing § 80.10(c) (21 CFR 80.10(c)) from the regulations.

IACM's request that FDA consider alternatives to the certification program are outside the scope of interim rule, and since the agency is returning to the past procedure for determining color additive certification fees, the issue needs no further consideration at this time. Thus, FDA is not making any additional modifications to § 80.10. The interim rule adopted on November 29, 1994, is therefore permanent, with the only modification that § 80.10(c) is withdrawn, and § 80.10(d) is redesignated as § 80.10(c) to replace it.

III. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866

directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The entire cost of this fee increase would be approximately $450,000 per year and would be distributed among approximately 30 companies who would pay an increased fee that is proportional to the number of pounds of color that they certify. Because the great majority of these costs will be borne by a few firms that have a dominant share of the market, the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

IV. Environmental Impact

The agency has determined under 21 CFR 25.24 (a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 80

Color additives, Cosmetics, Drugs, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Foods and Drugs, the interim rule published in the Federal Register of November 29, 1994 (59 FR 60898) is confirmed with the following changes to 21 CFR part 80:

PART 80—COLOR ADDITIVE CERTIFICATION

1. The authority citation for 21 CFR part 80 continues to read as follows:

Authority: Secs. 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371, 379e).

§ 80.10 [Amended]

2. Section 80.10 *Fees for certification services* is amended by removing paragraph (c) and by redesignating paragraphs (d), (e), and (f) as paragraphs (c), (d), and (e), respectively.

Dated: January 25, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–1977 Filed 1–31–96; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FL–064–1–7179a; FRL–5305–7]

Approval and Promulgation of Implementation Plans: Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to Florida's State Implementation Plan (SIP) to allow the State of Florida to issue Federally enforceable state operating permits (FESOP). On December 21, 1994, the State of Florida through the Florida Department of Environmental Protection (FDEP), submitted a SIP revision fulfilling the requirements necessary for a state FESOP program to become Federally enforceable. In order to extend the Federal enforceability of Florida's FESOP program to hazardous air pollutants (HAP), EPA is also approving Florida's FESOP program pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA) so that Florida may issue Federally enforceable state operating permits for HAP.

DATES: This final rule is effective April 1, 1996 unless adverse or critical comments are received by March 4, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to Gracy R. Danois, at the EPA Regional Office listed below. Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Gracy R. Danois, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4150. Reference file FL–064–1–7179a.

SUPPLEMENTARY INFORMATION:

I. Summary of State Submittal

On December 21, 1994, the State of Florida through the FDEP submitted a SIP revision designed to make certain permits issued under the State's existing minor source operating permit program Federally enforceable pursuant to EPA requirements as specified in a Federal Register notice, ''Requirements for the preparation, adoption, and submittal of implementation plans; air quality, new source review; final rules.'' (see 54 FR 22274, June 28, 1989). Additional materials were provided by FDEP to EPA in a supplemental submittal on April 24, 1995.

Florida will continue to issue permits which are not Federally enforceable under its existing minor source operating permit rules as it has done in the past. The SIP revision, which is the subject of this document, adds requirements to Florida's current minor source operating permit program, which allows the State to issue FESOP. This voluntary SIP revision allows EPA and citizens under the CAA to enforce terms and conditions of Florida's FESOP program. Operating permits that are issued under the State's FESOP program that is approved into the SIP and under section 112(l), will provide Federally enforceable limits to an air pollution source's potential to emit. Limiting a source's potential to emit through Federally enforceable operating permits can affect the applicability of Federal regulations, such as title V operating permits, New Source Review (NSR) preconstruction permits, Prevention of Significant Deterioration (PSD) preconstruction permits for criteria pollutants and federal air toxics requirements mandated under section 112 of the CAA, to a source.

In the aforementioned June 28, 1989, Federal Register document, EPA listed

five criteria necessary to make a State's minor source operating permit program Federally enforceable and, therefore, approvable into the SIP. This revision satisfies the five criteria for Federal enforceability of Florida's FESOP program.

The first criterion for a state's operating permit program to be Federally enforceable is EPA's approval of the permit program into the SIP. On December 21, 1994, the State of Florida submitted through FDEP a SIP revision designed to meet the five criteria for Federal enforceability. The State supplemented their submittal with additional information on April 24, 1995. Today's action will approve these regulations into the Florida SIP, and therefore satisfy the first criterion for Federal enforceability.

The second criterion for a state's operating permit program to be Federally enforceable is that the regulations approved into the SIP must impose a legal obligation that operating permit holders adhere to the terms and limitations of such permits. Florida's program meets this criterion in Rule 62–210.300(2)(b)1.d. of the Florida Administrative Code (F.A.C.), by stating that ''each permit shall be conditioned such that the owner or operator is legally obligated to adhere to the terms and limitations of such permit, and of any revision or renewal of such permit made in accordance with the requirements of this paragraph * * *'' Moreover, F.A.C. 62–210.300(2)(b)1., states that only permits issued, renewed or revised in accordance with the requirements of this rule shall be deemed Federally enforceable. Hence, the second criterion for Federal enforceability is satisfied.

The third criterion for a state's operating permit program to be Federally enforceable is that the state operating permit program must require all emissions limitations, controls, and other requirements imposed by permits to be at least as stringent as any other applicable limitations and requirements contained in the SIP or enforceable under the SIP, and the program may not issue permits that waive, or make less stringent, any limitations or requirements contained in or issued pursuant to the SIP, or that are otherwise ''Federally enforceable'' (e.g., standards established under sections 111 and 112 of the CAA). The first paragraph of F.A.C. Rule 62–210.300, requires that ''all emissions limitations, controls, and other requirements imposed by such permits shall be at least as stringent as any applicable limitations and requirements contained in or enforceable under the SIP or that are otherwise Federally enforceable''. Additionally, this paragraph specifies that ''issuance of a permit does not relieve the owner or operator of any emission unit from complying with applicable emission limiting standards or other requirements of the air pollution rules of the Department or any other applicable requirements under Federal, state, or local law.'' Therefore, this section of Florida's permits rule satisfies the third criterion for Federal enforceability.

The fourth criterion for a state's operating permit program to be Federally enforceable is that limitations, controls, and requirements in the operating permits must be permanent, quantifiable, and otherwise enforceable as a practical matter. With respect to this criterion, enforceability is essentially provided on a permit-by-permit basis, particularly by writing practical and quantitative enforcement procedures into each permit. EPA will review the Federal enforceability of Florida's permits by using the policy memorandum entitled, ''Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and title V of the Clean Air Act (Act),'' dated January 25, 1995, which describes the types of limitations that reduce potential to emit in a Federally enforceable manner. Florida's F.A.C. Section 62–210.300(2)(b)1.e. provides for fully enforceable permit requirements. Concerning permanence, F.A.C. Section 62–210.300(2)(b)(2), establishes that once a facility obtains a synthetic non-title V permit, the facility is subject to its requirements unless the source becomes a title V source or the facility can demonstrate that is ''naturally minor'' without any Federally enforceable limitations. Consequently, Florida's rules provide for the degree of permanence necessary for enforcement of the applicable provisions, and provide that the permit limitations will be fully enforceable. Hence, the fourth criterion for Federal enforceability is met.

The fifth criterion for a state's operating permit program to be Federally enforceable is providing EPA and the public with timely notice of the proposal and issuance of such permits, and providing EPA, on a timely basis, with a copy of each proposed (or draft) and final permit intended to be Federally enforceable. This process must also provide for an opportunity for public comment on the permit applications prior to issuance of the final permit. Florida satisfies this criteria in F.A.C. Sections 62–210.300(2)(b)1.b., 62–210.350(1)(a)2. and 62–210.350(4), which require the State to provide a 30 day public comment period of proposed permitting actions, and to provide a copy of each proposed (or draft) and final permit to the Administrator. EPA notes that any permit which has not gone through an opportunity for public comment and EPA review under the Florida FESOP program will not be Federally enforceable.

In addition to requesting approval into the SIP, Florida has also requested approval of its FESOP program under section 112(l) of the Act for the purpose of creating Federally enforceable limitations on the potential to emit of HAP through the issuance of Federally enforceable state operating permits. Approval under section 112(l) is necessary because the proposed SIP approval discussed above only extends to the control of criteria pollutants.

EPA believes that the five criteria for Federal enforceability are also appropriate for evaluating and approving FESOP programs under section 112(l). The June 28, 1989, Federal Register document did not specifically address HAPs because it was written prior to the 1990 amendments to section 112, not because it establishes requirements unique to criteria pollutants.

In addition to meeting the criteria in the June 28, 1989, document, a FESOP program that addresses HAP must meet the statutory criteria for approval under section 112(l)(5). Section 112(l) gives EPA authority to approve a program only if it: (1) contains adequate authority to assure compliance with any section 112 standards or requirements; (2) provides for adequate resources; (3) provides for an expeditious schedule for assuring compliance with section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the CAA. The January 25, 1995, memorandum cited above, provides further discussion of these criteria and of the extent to which limits on criteria pollutants such as volatile organic compounds and particulate matter may be considered to limit sources' potential to emit HAP.

EPA plans to codify the approval criteria for programs limiting the potential to emit for HAP, such as FESOP programs, through amendments to Subpart E of Part 63, the regulations promulgated to implement section 112(l) of the CAA. (See 58 FR 62262, November 26, 1993). EPA anticipates that these regulatory criteria, as they apply to FESOP programs, will mirror those set forth in the June 28, 1989, Federal Register document. The EPA also anticipates that since FESOP programs approved pursuant to section 112(l) prior to the planned Subpart E

revisions will have been approved as meeting these criteria, further approval actions for those programs will not be necessary.

EPA has authority under section 112(l) to approve programs to limit the potential to emit of HAP directly under section 112(l) prior to the Subpart E revisions. Section 112(l)(5) requires the EPA to disapprove programs that are inconsistent with guidance required to be issued under section 112(l)(2). This might be read to suggest that the ''guidance'' referred to in section 112(l)(2) was intended to be a binding rule. Even under this interpretation, EPA does not believe that section 112(l) requires this rulemaking to be comprehensive. That is to say, it need not address every possible instance of approval under section 112(l). EPA has already issued regulations under section 112(l) that would satisfy any section 112(l)(2) requirement for rulemaking. Given the severe timing problems posed by impending deadlines set forth in ''maximum achievable control technology'' (MACT) emission standards under section 112 and for submittal of title V permit applications, EPA believes it is reasonable to read section 112(l) to allow for approval of programs to limit potential to emit prior to promulgation of a rule specifically addressing this issue. Therefore, EPA is approving Florida's FESOP program so that Florida may begin to issue Federally enforceable operating permits as soon as possible.

Regarding the statutory criteria of section 112(l)(5) referred to above, EPA believes Florida's FESOP program contains adequate authority to assure compliance with section 112 requirements because the third criterion of the June 28, 1989, Federal Register document is met. That is to say, Florida's program does not allow for the waiver of any section 112 requirements. Sources that become minor through a permit issued pursuant to this program would still be required to meet the section 112 requirements applicable to non-major sources.

Regarding the requirement for adequate resources, EPA believes Florida has demonstrated that it will provide adequate resources to support the FESOP program. EPA expects that resources will continue to be adequate to administer that portion of the State's minor source operating permit program under which Federally enforceable operating permits will be issued since Florida has administered a minor source operating permit program for several years. EPA will monitor Florida's implementation of its FESOP program to ensure that adequate resources are in fact available.

EPA also believes that Florida's FESOP program provides for an expeditious schedule to assure compliance with section 112 requirements. This program will be used to allow a source to establish a voluntary limit on potential to emit to avoid being subject to a CAA requirement applicable on a particular date. Nothing in Florida's FESOP program would allow a source to avoid or delay compliance with a CAA requirement if it fails to obtain an appropriate Federally enforceable limit by the relevant deadline. Finally, EPA believes Florida's program is consistent with the intent of section 112 and the CAA for states to provide a mechanism through which sources may avoid classification as major sources by obtaining Federally enforceable limits on potential to emit.

Eligibility for Federally enforceable permits extends not only to permits issued after the effective date of this rule, but also to permits issued under the State's current rule prior to the effective date of today's rulemaking. If the State followed its own regulation, each issued permit that established a title I condition (e.g. for a source to have minor source potential to emit) was subject to public notice and prior EPA review. Therefore, EPA will consider all such operating permits which were issued in a manner consistent with both the State regulations and the five criteria as federally enforceable upon the effective date of this action provided that any permits that the State wishes to make federally enforceable are submitted to EPA and accompanied by documentation that the procedures approved today have been followed. EPA will expeditiously review any individual permits so submitted to ensure their conformity with the program requirements.

With Florida's addition of these provisions and EPA's approval of this revision to the SIP, Florida's FESOP program satisfies the criteria described in the June 28, 1989, Federal Register document.

II. Final Action

In this action, EPA is approving Florida's FESOP program. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 1, 1996 unless, within 30 days of its publication, adverse or critical comments are received. If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 1, 1996.

The Agency has reviewed this request for revision of the Federally-approved SIP for conformance with the provisions of the 1990 Clean Air Act Amendments enacted on November 15, 1990. EPA has determined that this action conforms with those requirements.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the CAA, 42 U.S.C. 7607 (b)(2).)

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify

that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2) and 7410(R).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State has elected to adopt the program provided for under Section 112(l) of the Clean Air Act. These rules may bind the State government to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action would impose no new requirements, such sources are already subject to these regulations under State law. Accordingly, no additional costs to the State government, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to the State government in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: September 20, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations,* is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart K—Florida

2. Section 52.520 is amended by adding paragraph (c)(90) to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) * * *

(90) Revisions to Chapter 62–210, Stationary Sources—General Requirements, submitted by the Florida Department of Environmental Protection on December 21, 1994 and April 24, 1995.

(i) Incorporation by reference.

(A) Revised Sections 62–210.300, ''Permits Required'', except 62–210.300(2)(b)1., and 62–210.350, ''Public Notice and Comment'', effective November 23, 1994. Revised Section 62–210.300(2)(b)1., effective April 18, 1995.

[FR Doc. 96–1937 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IL112–1–6759a; FRL–5331–7]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On October 24, 1994, the State of Illinois submitted a site-specific State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency (USEPA) for Alumax Incorporated's Morris, Illinois facility, as part of the State's requirement under the Clean Air Act (Act) to adopt Reasonably Available Control Technology (RACT) rules controlling Volatile Organic Material (VOM) for sources in the Chicago ozone nonattainment area which have the potential to emit 25 tons of VOM per year and are not covered under a USEPA Control Techniques Guideline (CTG) document. VOM, as defined by the State of Illinois, is identical to ''volatile organic compounds'' (VOC), as defined by USEPA. Emissions of VOC react with other pollutants, such as oxides of nitrogen, on hot summer days to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. Chicago area RACT rules are intended to establish for each particular major stationary source in the Chicago ozone nonattainment area the lowest VOC emission limitation it is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility. RACT controls are a major component of the Chicago ozone nonattainment area's overall strategy to achieve and maintain attainment with the ozone standard. A final approval action is being taken because the submittal meets all pertinent Federal requirements.

DATES: The ''direct final'' is effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 4, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the revision request and USEPA's analysis (Technical Support Document) are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886–6082 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(2) of the Act requires States with moderate and above ozone nonattainment areas to adopt VOC RACT rules covering ''major'' sources not already covered by a CTG for all areas designated nonattainment for ozone and classified as moderate or above. Under Section 182(d), sources located in areas classified as ''severe'' are considered ''major'' sources if they have the potential to emit 25 tons per year or more of VOC.

On October 21, 1993, the State of Illinois submitted ''generic'' RACT rules covering non-CTG major sources in the Chicago severe ozone nonattainment

area, which includes subparts PP, QQ, RR, TT, and UU of part 218 of the 35 Illinois Administrative Code (IAC), as a revision to the Illinois SIP. This SIP revision is soon to be promulgated by USEPA.

On December 20, 1993, Alumax and the Illinois Environmental Protection Agency (IEPA) filed a joint petition for an adjusted standard for Alumax's Morris, Illinois facility with the Illinois Pollution Control Board (Board). The adjusted standard petition sought relief for the Morris facility's hot and cold aluminum rolling mills from VOM control requirements found in part 218, subpart TT. Subpart TT would require the Morris facility's rolling mills to meet an 81 percent (%) reduction in uncontrolled VOM emissions. A public hearing on the adjusted standard was held on March 1, 1994, in Morris, Illinois. Alumax and IEPA contended that alternative control requirements for the Morris facility are necessary due to Alumax's finding that placing add-on control equipment to the facility's hot and cold rolling mills in order to meet the 81% control requirement would be technically and economically infeasible. On September 1, 1994, the Board adopted a Final Opinion and Order, AS 92–13, granting the adjusted standard, replacing the 81% control requirement with less stringent requirements, which include lubricant selection and temperature control. The adjusted standard also became effective on September 1, 1994.

The IEPA formally submitted the adjusted standard for Alumax on October 24, 1994, as a site-specific revision to the Illinois SIP for ozone. In doing so, IEPA intends to cover the Act's section 182(b)(2) major non-CTG RACT requirement for Alumax's Morris, Illinois facility. USEPA made a finding of completeness of this SIP submittal in a letter dated November 30, 1994.

II. State Submittal

The site-specific SIP revision would alter application of regulations contained within subpart TT, section 218.986 of the 35 IAC, as they apply to the Alumax facility's hot and cold aluminum rolling mills. The regulations in section 218.986 address ''other emission units.'' The request for an adjusted standard deals solely with the requirements found in subsections (a), (b), and (c), which require installation and maintenance of emission capture and control equipment which achieves an overall reduction in uncontrolled VOM emissions of at least 81%, an independent requirement for coating lines (not applicable in this case), or an alternative control plan which has been approved by the IEPA and the USEPA.

The site-specific SIP revision submittal contains a study conducted by Environmental Resources Management (ERM) which reviewed possible VOM emission control strategies and associated costs for the Alumax facility's hot and cold aluminum rolling mills. This study considered five process modification and treatment technologies to demonstrate RACT for the facility, including thermal incineration, oil absorption, carbon adsorption, steam concentration, and rolling lubricant selection with temperature control. Also considered was mill hooding, but hooding is ineffectual without connection to an add-on control device. The study found thermal incineration, oil absorption, carbon adsorption, and steam concentration to be technically and economically infeasible for the Alumax facility. Rolling lubricant selection with temperature control, however, was found to be the most appropriate VOM control method for the facility. The use of inherently low volatility rolling oils as lubricants in the cold rolling mills, and oil and water emulsions which maximizes water, instead of oil in lubricating the hot rolling mills, could achieve lower VOM emissions in the Alumax facility. Likewise, the study recommended temperature control of these lubricants so that the vapor pressure exerted by the system does not cause excessive VOM emission while maximizing the sensible heat capacity of the system. The Board's adjusted standard reflects these recommendations, by exempting the Alumax facility from the 81% control requirement, and, instead, requiring that lubricant selection and temperature control be used at the facility, along with requiring certain monitoring, test methods, and recordkeeping/recording be performed to demonstrate compliance. Based upon the ERM study, the USEPA finds acceptable the justification for not requiring the use of add-on control technology at the Alumax facility, and establishing for the facility instead lubricant selection and temperature control as RACT.

III. Analysis of Adjusted Standard

The adjusted standard's requirements for the Alumax facility are as follows:

A. Hot Rolling Mill

The Alumax Morris facility's hot rolling mill must use an oil/water emulsion rolling lubricant not to exceed 10%, by weight, of petroleum-based oil and additives, and a maximum inlet sump rolling lubricant temperature of 200 Fahrenheit (F). Compliance shall be demonstrated by a monthly analysis of a grab rolling lubricant sample from the hot mill and continuous temperature reading in the inlet sump feeding the mill.

The lubricants at the hot mill must be sampled and tested, for the percentage of oil and water, on a monthly basis. ASTM Method D95–83 (Reapproved 1990), ''Standard Test Method for Water in Petroleum Products and Bituminous Materials by Distillation,'' shall be used to determine the percent by weight for petroleum-based oil and additives.

B. Cold Rolling Mills

The Morris facility's cold rolling mills must use low vapor pressure lubricants composed of highly paraffinic oils and additives (rolling lubricant) and a maximum inlet sump rolling lubricant temperature of 150 degrees F. Stoddard solvent shall be the only solvent additive used in rolling lubricants. Compliance shall be demonstrated by a monthly analysis of a grab rolling lubricant sample from each operating mill and continuous temperature readings of the rolling lubricant temperature of the inlet sump feeding each mill.

All incoming shipments of the rolling lubricants for the cold mills must be sampled and each sample must undergo a distillation range test using ASTM method D86–90, ''Standard Test Method for Distillation of Petroleum Products''. The initial and final boiling points of oils must be between 440 and 650 degrees F. Also, for the cold mills, samples of the as-applied rolling lubricants must be taken on a monthly basis to verify, using ASTM D86–90, that the initial boiling point is greater than 310 degrees F and no more than 10.0 % of as-applied rolling lubricants shall boil off between the initial boiling point and 440 degrees F.

In addition, Stoddard solvent shall be the only solvent additive used in the cold mill rolling lubricants. All incoming shipments of Stoddard solvent must be sampled like the rolling lubricants using ASTM method D86–90, and the initial and final boiling points of the solvent additive must be between 310 and 390 degrees F.

C. Coolant Temperature Monitoring

Coolant temperature shall be monitored at all of the rolling mills by use of thermocouple probes and computer data system which automatically record values at least every five (5) minutes.

D. Recordkeeping and Reporting

All percent oil test results for hot mill lubricants, all distillation test results for cold mill lubricants and Stoddard solvent, all coolant temperature recording data, and all oil/water emulsion formulations with identification of all oils and solvent additives shall be kept on file, and be available for inspection by the Agency (IEPA or USEPA), for three years.

If Alumax deviates from these control requirements for any reason, it must submit a written report providing a description of the deviation, along with a date and time, cause of the deviation, if known, and any corrective action taken. Unless more frequent or detailed reporting is required under other provisions, including permit conditions, such written report shall be submitted, for each calendar year, by February 15 of the following year.

E. Compliance Date

Alumax shall comply with the above requirements listed above by October 31, 1994.

II. Final Rulemaking Action

The USEPA has undertaken its analysis of the site-specific SIP revision request based on a review of the materials presented by Alumax and IEPA, and has determined that the VOM control requirements specified for the Alumax Morris facility's aluminum rolling mills does constitute RACT and are fully enforceable. On this basis, the site-specific SIP revision request for Alumax's Morris facility is approvable.

This adjusted standard, AS 92–13, was adopted on September 1, 1994, and became effective on September 1, 1994, and replaces the requirements of section 218.986 of the 35 IAC as they apply to Alumax's Morris, Illinois hot and cold rolling operations.

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 4, 1996. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document. Please be aware that USEPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on April 1, 1996.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference.

Dated: October 27, 1995.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(118) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(118) On October 24, 1994, the State submitted a site-specific revision to the State Implementation Plan establishing lubricant selection and temperature control requirements for Alumax Incorporated, Morris, Illinois facility's hot and cold aluminum rolling mills, as part of the Ozone Control Plan for the Chicago area.

(i) Incorporation by reference.

September 1, 1994, Opinion and Order of the Illinois Pollution Control Board AS 92–13, effective September 1, 1994.

[FR Doc. 96–1935 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[AZ 13–2–7096; FRL–5297–5]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County Division of Air Pollution Control

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the Arizona State Implementation Plan (SIP) proposed in the Federal Register on October 4, 1994. The revisions concern rules from the Maricopa County Division of Air Pollution Control (MCDAPC). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from solvent degreasing operations, petroleum solvent dry cleaning, gasoline transfer, and the use of roadway asphalt. Thus, EPA is finalizing the approval of these revisions into the Arizona SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on March 4, 1996.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street SW., Washington, D.C. 20460.

Arizona Department of Environmental Quality, 3033 N. Central Avenue, Phoenix, AZ 85012.

Maricopa County Division of Air Pollution Control, 2406 South 24th Street, Suite E–214, Phoenix, AZ 85034.

FOR FURTHER INFORMATION CONTACT: Patricia A. Bowlin, Rulemaking Section, Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1188.

SUPPLEMENTARY INFORMATION:

Background

On October 4, 1994 in 59 FR 50533, EPA proposed to approve the following MCDAPC rules into the Arizona SIP: Rule 331, Solvent Cleaning; Rule 333, Petroleum Solvent Dry Cleaning; Rule 340, Cutback and Emulsified Asphalt; and Rule 353, Transfer of Gasoline into Stationary Dispensing Tanks. Rule 331 and Rule 333 were adopted by MCDAPC on June 22, 1992. Rule 340 was adopted on September 21, 1992, and Rule 353 was adopted on April 6, 1992. These rules were submitted by the Arizona Department of Environmental Quality (ADEQ) to EPA on June 29, August 10, and November 13, 1992. These rules were submitted in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for each of the above rules and the nonattainment area is provided in the notice of proposed rulemaking (NPRM) cited above.

EPA has evaluated all of the above rules for consistency with the requirements of the CAA, EPA regulations, and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRM cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in 59 FR 50533 and in technical support documents (TSDs) available at EPA's Region IX office.

Response to Public Comments

A 30-day public comment period was provided in 59 FR 50533. EPA received no comments regarding the NPRM.

EPA Action

EPA is finalizing action to approve the above rules for inclusion into the Arizona SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to

perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 5, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart D—Arizona

2. Section 52.120 is amended by revising paragraph (c)(72) and by adding paragraphs (c) (79) and (80) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(72) New and amended plans and regulations for the following agencies were submitted on November 13, 1992 by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(*1*) Small Business Stationary Source Technical and Environmental Compliance Assistance Program, adopted on November 13, 1992.

(B) Maricopa County Environmental Quality and Community Services Agency.

(*1*) Rule 340, adopted on September 21, 1992.

* * * * *

(79) New and amended regulations for the following agencies were submitted on June 29, 1992 by the Governor's designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Quality and Community Services Agency.

(*1*) Rule 353, adopted on April 6, 1992.

* * * * *

(80) New and amended regulations for the following agencies were submitted on August 10, 1992 by the Governor's designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Quality and Community Services Agency.

(*1*) Rules 331 and 333, adopted on June 22, 1992.

* * * * *

[FR Doc. 96–1930 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–W

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40 CFR Part 52

[CA 144–3–7121; FRL–5331–4]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; San Joaquin Valley Unified Air Pollution Control District; South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the Federal Register on March 28, 1995 and on April 20, 1995. The revisions concern San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4403 and South Coast Air Quality Management District (SCAQMD) Rule 1164. SJVUAPCD Rule 4403 controls volatile organic compound (VOC) emissions from components at light crude oil and gas production facilities and at natural gas processing facilities. SCAQMD Rule 1164 covers VOC emissions from semiconductor manufacturing operations. This approval action will incorporate the rules into the Federally approved SIP. The intended effect of approving these rules is to regulate VOC emissions in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In addition, this action will serve as a final determination that deficiencies identified by EPA in limited approval/limited disapproval actions on August 30, 1993 and September 29, 1993 have been corrected and that any sanctions or Federal Implementation Plan obligations are permanently stopped. EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

EFFECTIVE DATE: This action is effective on March 4, 1996.

ADDRESSES: Copies of these rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street SW., Washington, DC. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Section (A–5–3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 1995 in 60 FR 15891, EPA proposed to approve the following rule into the California SIP: SJVUAPCD Rule 4403, Components Serving Light Crude Oil and Gases at Light Crude Oil and Gas Production Facilities and Components at Natural Gas Processing Facilities. Rule 4403 was adopted by SJVUAPCD on February 16, 1995. On

April 20, 1995 in 60 FR 19701, EPA proposed to approve SCAQMD Rule 1164, Semiconductor Manufacturing, into the California SIP. SCAQMD Rule 1164 was adopted on January 13, 1995. Both of these rules were submitted by the California Air Resources Board (CARB) to EPA on February 24, 1995.

The rules were submitted in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for the above rules and nonattainment areas is provided in the appropriate Notice of Proposed Rulemaking (NPRM) cited above.

EPA has evaluated the above rules for consistency with the requirements of the CAA, EPA regulations, and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRMs cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of each rule and its evaluation has been provided in the NPRMs and in the technical support documents (TSDs) available at EPA's Region IX office. (TSDs dated March 7, 1995 and April 7, 1995, respectively.)

Response to Public Comments

A 30-day public comment period was provided in each NPRM. No comments were received regarding SCAQMD Rule 1164. EPA received letters from two commenters regarding SJVUAPCD Rule 4403. The comments, listed below, have not affected EPA's decision to take final approval action on this rule.

Comment: Annual inspection of flanges goes beyond RACT. Data are available which demonstrate that flange leaks are rare, and therefore annual flange inspections are not cost-effective. Flanges should be exempted from inspection requirements.

Response: A requirement that flanges be inspected annually is consistent with similar requirements in several other California district rules covering this source category. District rules are not precluded from requiring controls which may exceed Federal RACT. The SJVUAPCD is conducting a field study to gather additional data on the historical leak frequency of flanges in order to determine if the annual flange inspection requirement should be amended. If the District determines that this requirement should be amended, the District may revise Rule 4403 and submit the revised version for incorporation into the SIP.

Comment: The definitions of ''component'' and ''component type'' should be amended to reference pump seals and compressor seals rather than the pump and compressor itself. The current definitions create enforcement confusion as to how a leak on a pump or compressor device will count towards the leak thresholds.

Response: SJVUAPCD is in the process of writing an enforcement policy to clarify and formalize the District's inspection practices regarding pumps and compressors.

Comment: Small oil and gas producers should be exempt from annual instrument inspection due to cost-effectiveness considerations.

Response: This concern, along with supporting evidence, should be presented to the SJVUAPCD in order for the District to determine if a small producer exemption is appropriate.

Comment: Rule 4403 should be amended prior to EPA's final rulemaking action.

Response: The decision to amend Rule 4403 lies with the SJVUAPCD. The current submitted version of Rule 4403 is consistent with the CAA and EPA policy. EPA has determined that it is appropriate to approve this rule into the SIP.

EPA Action

EPA is finalizing action to approve the above rules for inclusion into the California SIP. EPA is approving the submittals under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being finalized for approval by this action will impose no new requirements, such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

The OMB has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 31, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(215)(i)(A)(*4*) and (c)(215)(i)(C) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(215) * * *

(i) * * *

(A) * * *

(*4*) Rule 1164, adopted on January 13, 1995.

* * * * *

(C) San Joaquin Valley Unified Air Pollution Control District.

(*1*) Rule 4403, adopted on February 16, 1995.

* * * * *

[FR Doc. 96–1847 Filed 1–31–96; 8:45 am]
BILLING CODE 6560–50–W

40 CFR Part 52

[IN57–1–7204a; FRL–5333–9]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: On August 25, 1995, the State of Indiana submitted a State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency (USEPA) for open burning as part of the State's 15 percent (%) Rate of Progress (ROP) Plan control measures for Volatile Organic Compounds (VOC). VOC is one of the air pollutants which combine on hot summer days to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. These ROP plans are intended to bring areas which have been exceeding the public health based Federal ozone air quality standard closer toward the goal of attaining and maintaining this standard. The control measures specified in this open burning SIP revision prohibit residential open burning in Clark, Floyd, Lake, and Porter Counties beginning June 1, 1995. Indiana expects that these measures will reduce VOC emissions by 921 pounds per day in Lake and Porter Counties, and 704 pounds per day in Clark and Floyd Counties.

DATES: The ''direct final'' is effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 4, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the revision request and USEPA's analysis (Technical Support Document) are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone David Pohlman at (312) 886–3299 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman at (312) 886–3299.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(1) of the Act requires all moderate and above ozone nonattainment areas to achieve a 15 percent reduction of 1990 emissions of volatile organic compounds by 1996. In Indiana, Lake and Porter Counties are classified as ''Severe'' nonattainment for ozone, while Clark and Floyd Counties are classified as ''Moderate'' nonattainment. As such, these areas are subject to the 15 percent Rate of Progress (ROP) requirement. On August 25, 1995, the Indiana Department of Environmental Management (IDEM) submitted a SIP revision request which amends Title 326 Indiana Administrative Code Article 4 Rule 1 Section 3 (326 IAC 4–1–3), to include a ban on residential open burning in Clark, Floyd, Lake, and Porter Counties. In doing so, IDEM believes that these control measures will help reduce VOC emissions enough to meet the 15% ROP requirements. The USEPA is undertaking a separate analysis to determine whether the 15% ROP requirement has been met as a result of this and other States submissions, and will make that determination in a separate rulemaking action.

Public hearings were held on this rule on May 4, 1994, September 7, 1994, and April 5, 1995, in Indianapolis, Indiana. The rules were finally adopted by the Indiana Air Pollution Control Board on April 5, 1995, became effective on June 23, 1995, and were published in the Indiana Register on July 1, 1995.

II. Analysis of State Submittal

The USEPA first approved an Indiana open burning rule on June 22, 1978, (43 FR 26721) as rule APC–2. (Indiana has since recodified APC–2 as 326 IAC 4–1.) Changes in the rule since USEPA's approval include the addition of an exemption for prescribed burning by the Department of Natural Resources for wildlife habitat maintenance, forestry purposes, and Natural Area management (326 IAC 4–1–3(a)(8)), and an exemption for United States Department of the Interior burning in order to facilitate a National Park Service Fire Management Plan for the Indiana Dunes National Lakeshore (326 IAC 4–1–3(a)(9)). These exemptions have been in place on the State level for several years, but had not been submitted for USEPA approval before the August 25, 1995, submittal.

The major change in the new rule is the addition of a ban on residential open burning for Clark, Floyd, Lake, and Porter Counties. The rule continues to allow residential open burning, with certain restrictions, in other parts of the State. There are no specific requirements or criteria for the USEPA to use in reviewing a ban against open burning. However, it is reasonable to conclude that this rule will provide reductions in VOC emissions. Therefore, this rule is approvable as part of Indiana's 15% ROP plan.

III. Final Rulemaking Action

Revised 326 IAC 4–1–3, contains a ban on residential burning in Clark, Floyd, Lake, and Porter Counties, and has been submitted as part of Indiana's 15% ROP Plan for VOC. The USEPA has undertaken an analysis of this SIP revision request based on a review of the materials presented by IDEM and has determined that it is approvable because it provides an enforceable mechanism for reducing VOCs and ozone. USEPA will take separate action on Indiana's ROP Plan in a future Federal Register document.

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 4, 1996. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in subsequent rulemaking. Please be aware that USEPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on April 1, 1996.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the

procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 9, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference.

Dated: October 31, 1995.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(100) to read as follows:

§ 52.770 Identification of Plan.

* * * * *

(c) * * *

(100) On August 25, 1995, Indiana submitted a regulation which bans residential open burning in Clark, Floyd, Lake, and Porter Counties in Indiana. The regulation allows residential open burning, with certain restrictions, in other parts of the State, and describes other types of open burning which are allowed in Indiana.

(i) Incorporation by reference.

(A) Indiana Administrative Code Title 326: Air Pollution Control Board, Article 4: Burning Regulations, Rule 1: Open Burning, Section 3: Exemptions. Added at 18 In. Reg. 2408 Effective June 23, 1995.

[FR Doc. 96–1843 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[MD043–3005; FRL–5339–2]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Prevention of Significant Deterioration: PM–10 Increments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland which amends Code of Maryland Administrative Regulations (COMAR) 26.11.01.01, 26.11.02.10 (C)(9), and 26.11.06.14. The intended effect of this action is to approve an amendment to Maryland's Prevention of Significant Deterioration (PSD) program. This revision makes these regulations consistent with the currently effective version of 40 CFR part 52.21, including establishing the maximum increases in ambient particles with an aerodynamic diameter of less than or equal to a nominal 10 micrometers (PM–10) concentration allowed in an area above the baseline concentrations. This action is being taken in accordance with section 110 of the Clean Air Act (CAA), and in satisfaction of the June 3, 1993 promulgation of the PM–10 increment regulations requiring that existing state PSD programs be modified to replace the total suspended particulate (TSP) increments with the new PM–10 increment provisions.

DATES: This action is effective April 1, 1996 unless notice is received on or before March 4, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Lisa M. Donahue, (215) 597–2923.

SUPPLEMENTARY INFORMATION: From 1991 to 1993, EPA promulgated amendments to the regulations for the prevention of significant deterioration of air quality from emissions of sulfur dioxide, nitrogen oxides, and particulate matter. These regulations establish the maximum increases, or increments, in ambient concentrations of these criteria pollutants. In 1991, EPA amended the definition of significant at § 52.21(b)(23)(i) (56 FR 5506). In 1992, EPA promulgated two revisions to 40 CFR Part 52.21. On February 3, 1992 EPA amended the definition of VOC at § 52.21(b)(30) (57 FR 3946), and on July 21, 1992 EPA adopted a New Source Review (NSR) exclusion for utility pollution control projects and amended § 52.21(b)(2), (21), and (31)–(38) (57 FR 32314–32339).

On June 3, 1993, EPA promulgated regulations under Section 166 of the Clean Air Act to prevent significant deterioration of air quality due to emissions of particles with an aerodynamic diameter of less than or equal to a nominal 10 micrometers (PM–10), establishing increments for PM–10. EPA added the PM–10 increments to the PSD program elements in 40 CFR 51.166 and 52.21, which replaced the original increments that were based on total suspended particulate (TSP) (58 FR 31637). On July 20, 1993, EPA revised § 52.21(l)(1) and (2), which adds Supplement B to the ''Guideline on Air Quality Models (Revised)'' (57 FR 38816).

Summary of SIP Revision

On July 17, 1995, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). The SIP revisions consist of changes to Maryland's Prevention of Significant Deterioration (PSD) Program at the Code of Maryland Administrative Regulations (COMAR) 26.11.01.01, 26.11.02.10 (C)(9), and 26.11.06.14, which update references to 40 CFR Part 52.21 to the 1993 edition. The SIP would be revised to remove references to the 1990 edition of the CFR and replace those references with 1993.

EPA Evaluation

EPA evaluated Maryland's SIP revision and concluded the following: (1) Updating the regulations provides updated definitions and model guidelines, establishes a New Source Review (NSR) exclusion for utility pollution control projects, and provides protection of the PSD increment for PM–10; and (2) all of the applicable requirements of 40 CFR Part 51 and 52 are met. A more detailed evaluation is provided in a Technical Support Document available upon request from the Regional EPA office listed in the **ADDRESSES** section of this notice.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 1, 1996 unless, by March 1, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on April 1, 1996.

Final Action

EPA is approving as revisions to the Maryland SIP changes to the Code of Maryland Administrative Regulations (COMAR) which were submitted on July 17, 1995. The submitted revision updates the reference to 40 CFR 52.21. This actions make Maryland's SIP regulations, COMAR 26.11.01.01, 26.11.02.10 (C)(9) and 26.11.06.14, consistent with the currently effective version of 40 CFR 52.21.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed/promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve revisions to the Maryland SIP which make Maryland's SIP regulations, COMAR 26.11.01.01, 26.11.02.10 (C)(9) and 26.11.06.14, consistent with the currently effective version of 40 CFR 52.21 must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides.

Dated: November 3, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart V—Maryland

2. Section 52.1070 is amended by adding paragraphs (c)(119) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(119) Revisions to the Code of Maryland Administrative Regulations for prevention of significant deterioration submitted on July 17, 1995 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of July 17, 1995 from the Maryland Department of the Environment transmitting revisions to the Maryland State Implementation Plan.

(B) Amendments to regulations 26.11.01.01, 26.11.02.10 (C)(9) and 26.11.06.14 under the Code of Maryland Administrative Regulations (COMAR) revising Maryland's prevention of significant deterioration program to incorporate changes to 40 CFR 52.21 made between 1992 and 1993. The amendments were effective on May 8, 1995 in the State of Maryland.

(ii) Additional material.

(A) Remainder of July 17, 1995 State of Maryland submittal.

[FR Doc. 96–1931 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NC–070–1–6962a; FRL–5295–9]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 15, 1994, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, (NCDEHNR) submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions are the adoption of new air quality rules, amendments to existing air quality rules and repeals of existing air quality rules that were the subject of public hearings held on March 21 and 30, 1994. These major rule changes include the addition of new sections 15A NCAC 2Q .0100 through .0111 General Provisions, 15A NCAC 2Q .0300 through .0311 (except 302) Construction and Operation Permits, and 15A NCAC 2Q .0600 through .0606 Transportation Facility Procedures. Other major revisions to the SIP include the repealing of sections 15A NCAC 2H .0601 through .0607, Purpose and Scope, and .0609 Permit Fees. Additional rule changes include modification to existing rules to correct cross references.

EFFECTIVE DATE: This action is effective April 1, 1996 unless notice is received by March 4, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the material submitted by the NCDEHNR may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4212.

SUPPLEMENTARY INFORMATION: On August 15, 1994, the State of North Carolina, through the NCDEHNR submitted revisions to the North Carolina SIP covering the adoption of new air quality rules, amendments to existing air quality rules and repeals of existing air quality rules that were the subject of public hearings held on March 21 and 30, 1994. These rules address permitting and transportation.

EPA is approving the following new rules and revisions of existing rules in the North Carolina SIP. These new rules and revisions are consistent with the requirements of the Clean Air Act and EPA guidance.

Section 15A NCAC 2Q .0100 General Provisions

This Section contains rules that apply to the entire subchapter. It requires a permit to be issued before constructing, operating or modifying a source that emits a regulated air contaminant or before entering into an irrevocable contract to construct, operate, or modify an air cleaning device. It identifies two types of air quality permits: the stationary source construction and operation air permit and the transportation facility (parking lots, parking decks and airports) construction and operation air permit. It also

1. Identifies activities exempted from air permit requirements;

2. defines terms used in this subchapter;

3. Provides information regarding where to obtain and file permit applications and where to inspect referenced documents;

4. describes procedures to follow for requesting and declaring confidential treatment of information;

5. authorizes the Director of the Division of Environmental Management to delegate his permit issuance authority;

6. contains a compliance schedule for sources that have been previously exempted from permitting but are now required to be permitted;

7. requires permits to be kept on site; and

8. allows the owner or operator of a facility to request a determination whether a particular facility or source requires a permit.

Section 15A NCAC 2Q .0600 Transportation Facility Procedures

This section contains permitting procedures for transportation sources (complex sources). These rules are, for the most part, a recodification of rules contained in section 15A NCAC 2D .0800 and 2H .0600. This section

1. Identifies who needs a permit under this section

2. defines terms used in this section;

3. describes items to be submitted with the application;

4. explains public participation procedures;

5. describes final action that may be taken on a permit application; and

6. explains when a permit may be terminated, modified, or revoked and reissued.

The following rules have been amended primarily to correct cross references. Other changes are noted where applicable.

15A NCAC 2D .0101 Definitions

Rule .0101 has also been amended to change the definition of ''air pollutant'' to one more consistent with the EPA definition

15A NCAC 2D .0501 Compliance With Emission Control Standards

Rule .0501 has been amended to include the paragraph previously listed in 15A NCAC 2H .0603 that describes emissions trading procedures.

15A NCAC 2D .0503 Particles From Fuel Burning Indirect Heat Exchangers

15A NCAC 2D .0530 Prevention of Significant Deterioration

15A NCAC 2D .0531 Sources in Nonattainment Areas

15A NCAC 2D .0532 Sources Contributing to an Ambient Violation

15A NCAC 2D .0533 Stack Height

15A NCAC 2D .0601 Purpose and Scope

Section 15A NCAC 2D .0800 Transportation Sources

The parts of this section that pertain to permitting procedures have been transferred to section 15A NCAC 2Q .0600. Other changes include the addition of new definitions for construction, modify (or modification), owner (or developer) and transportaion facility. Two new rules, 15A NCAC 2D .0805 Parking Facilities (explains in more detail the types of parking facilities required to be evaluated and permitted) and 15A NCAC 2D .0806 Ambient Monitoring and Modeling Analysis (authorizes the Director to require modeling or monitoring), have been added.

EPA is approving that the following rules in the North Carolina SIP be repealed. These rules have been recodified into Section 15A NCAC 2Q .0600 Transportation Facility Procedures.

15A NCAC 2H .0601 Purpose and Scope

15A NCAC 2H .0602 Definitions

15A NCAC 2H .0603 Application

15A NCAC 2H .0604 Final Action on Permit Applications

15A NCAC 2H .0606 Delegation of Authority

15A NCAC 2H .0607 Copies of Referenced Documents

15A NCAC 2H .0609 Permit Fees

This following sections are being addressed in separate Federal Register Notices.

SECTION 15A NCAC 2Q .0207 Annual Emissions Reporting

SECTION 15A NCAC 2Q .0300 Construction and Operating Permit

Final Action

In this notice, EPA is approving the revisions to the North Carolina Environmental Management regulations listed above. This action is being taken without prior proposal because the changes are noncontroversial and EPA anticipates no significant comments on them. The public should be advised that this action will be effective on April 1, 1996. However, if notice is received by March 4, 1996 that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the CAA, 42 U.S.C. § 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2)).

The OMB has exempted these actions from review under Executive Order 12866.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities

with jurisdiction over populations of less than 50,000.

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. Section 7410(a)(2).

Unfunded Mandates

Under Sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 14, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart II—North Carolina

2. Section 52.1770 is amended by adding paragraph (c)(84) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(84) The VOC RACT regulations, NSR regulations, and other miscellaneous revisions to the North Carolina State Implementation Plan which were submitted on August 15, 1994.

(i) Incorporation by reference.

(A) Addition of new North Carolina regulations 15A NCAC 2D .0805 and .0806 and 15A NCAC 2Q .0101 through .0111, and .0601 through .0607. effective on July 1, 1994.

(B) Amendments to North Carolina regulations 15A NCAC 2D .0101, .0501, .0503, .0530, .0531, .0532, .0533, .0601, .0801, .0802, .0803, and .0804 effective on July 1, 1994.

(ii) Other material. None.

* * * * *

[FR Doc. 96–1840 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NC–075–1–7221a; FRL–5317–5]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the Forsyth County Air Quality Control Ordinance and Technical Code

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On March 7, 1995, the Forsyth County Environmental Affairs Department, through the North Carolina Department of Environment, Health and Natural Resources, submitted recodifications to the Forsyth County Air Quality Control Ordinance and Technical Code. These recodifications make the Forsyth County Air Quality Control Ordinance and Technical Code more directly comparable to the North Carolina Air Quality Regulations.

DATES: This action is effective April 1, 1996 unless notice is received by March 4, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4216.

SUPPLEMENTARY INFORMATION: On March 7, 1995, the Forsyth County Environmental Affairs Department, through the North Carolina Department of Environment, Health and Natural Resources, submitted recodifications to the Forsyth County Air Quality Control Ordinance and Technical Code. These recodifications make the Forsyth County Air Quality Control Ordinance and Technical Code more directly comparable to the North Carolina Air Quality Regulations. EPA has not reviewed the substance of these regulations at this time. These rules were approved into the State implementation plan in previous rulemakings. The EPA is now merely approving the renumbering system, as well as any new language, submitted by the Forsyth County Environmental

Affairs Department. The EPA's approval of the renumbering system and new language, at this time, does not imply any position with respect to the approvability of the substantive rules. To the extent EPA has issued any SIP calls to the State with respect to the adequacy of any of the rules subject to this recodification, EPA will continue to require the Forsyth County Environmental Affairs Department to correct any such rule deficiencies despite EPA's approval of this recodification.

Final Action

EPA is approving the above referenced revisions to the Forsyth County Air Quality Control Ordinance and Technical Code. This action is being taken without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 1, 1996 unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 1, 1996.

Under Section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. Section 7410(a)(2) and 7410(k)(3).

Unfunded Mandates

Under Sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the CAA. These rules may bind State, local and tribal governments to perform certain duties. EPA has examined whether the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 3, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart II—North Carolina

2. Section 52.1770, is amended by adding paragraph (c)(87) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(87) Recodifications to the Forsyth County Air Quality Control Ordinance and Technical Code and other miscellaneous revisions to the North Carolina State Implementation Plan which were submitted on March 7, 1995.

(i) Incorporation by reference.

Forsyth County Air Quality Control Ordinance and Technical Code effective on December 19, 1994. Subchapter 3A, Air Quality Control; Subchapter 3B, Relationship to State Code; Subchapter 3D, Air Pollution Control Requirements; Subchapter 3H, Section .0600 Air

Quality Permits; and Subchapter 3Q, Air Quality Permits.

(ii) Other material. None.

[FR Doc. 96–1924 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[NC–77–1–7728a & NC–74–1–7727a; FRL–5325–3]

Approval and Promulgation of Implementation Plans, North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On March 3, 1995, and May 24, 1995, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions adopt three source-specific volatile organic compound rules; Thread Bonding Manufacturing, Glass Christmas Ornament Manufacturing, Commercial Bakeries, delete textile coating, Christmas ornament manufacturing, and bakeries from the list of sources that must follow interim standards, define di-acetone alcohol as a non-photochemically reactive solvent, and place statutory requirements for adoption by reference for referenced ASTM methods into a single rule rather than each individual rule that references ASTM methods.

DATES: This action is effective April 1, 1996 unless notice is received by March 4, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604.

FOR FURTHER INFORMATION CONTACT: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4212.

SUPPLEMENTARY INFORMATION: On May 24, 1995, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions affect several sections in the ozone regulations. EPA is approving the revisions to sections 15A NCAC 2D .0104 Incorporation by Reference, .0950 Interim Standards for Certain Source Categories, .0955 Thread Bonding Manufacturing, .0956 Glass Christmas Ornament Manufacturing, and .0957 Commercial Bakeries, because these revisions are consistent with the requirements of the Clean Air Act and EPA guidance.

15A NCAC 2D .0104, Incorporation by Reference

These amendments involve the placement of statutory requirements for adoption by reference for referenced American Society for Testing and Materials methods (ASTM) into a single rule rather than each individual rule that references ASTM methods.

15A NCAC 2D .0950, Interim Standards for Certain Source Categories

This section, is being revised to delete textile coating, bakeries and Christmas ornament manufacturing from the list of sources that are required to follow the interim standards. The sources removed have had permanent rules adopted and are now subject to those requirements. The final revision in this section adds a sentence that defines di-acetone alcohol and perchloroethylene as a non-photochemically reactive solvent for these interim standards.

The permanent rules adopted were 15A NCAC 2D .0955 THREAD BONDING MANUFACTURING, .0956 GLASS CHRISTMAS ORNAMENT MANUFACTURING, and .0957 COMMERCIAL BAKERIES. These sections adopted rules to reduce the emission level by requiring at least a 95% reduction by weight and/or by installing a thermal incinerator with a temperature of at least 1600 F and a residence time of at least 0.75 seconds.

The submitted revisions also included amendments to 15A NCAC 2D .0902 Applicability; .0907 Compliance Schedules For Sources In Nonattainment Areas; .0910 Alternative Compliance Schedules; .0911 Exception From Compliance Schedules; .0952 Petition For Alternative Controls; .0954 Stage II Vapor Recovery; .1401–.1415; Reasonably Available Control Technology for Sources of Nitrogen Oxides (No_x RACT); .1501–.1504 Transportation Conformity; and .1601–.1603; General Conformity. These revisions are being addressed in separate Federal Register Notices.

Final Action

EPA is approving the above referenced revisions to the North Carolina SIP. This action is being taken without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 1, 1996 unless, within 30 days of its publication, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 1, 1996.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to

enforce its requirements. (See Section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2) and 7410 (k) (3).

Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 20, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations,* is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart II—North Carolina

2. Section 52.1770, is amended by adding paragraph (c)(85) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(85) The VOC revisions to the North Carolina State Implementation Plan which were submitted on March 3, 1995, and on May 24, 1995.

(i) Incorporation by reference.

(A) Regulations 15A NCAC 2D .0955, .0956, and .0957 effective on April 1, 1995.

(B) Regulations 15A NCAC 2D .0950, and .0104 effective on May 1, 1995.

(ii) Other material. None.

* * * * *

[FR Doc. 96–1841 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[NC–73–1–7225a; NC–77–2–7726a; FRL–5337–4]

Approval and Promulgation of Implementation Plans, North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 15, 1994, and May 24, 1995, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions include the adoption of new air quality rules and amendments to existing air quality rules.

The major rule changes include the addition of new sections for Vapor Return Piping for Stage II Vapor Recovery and Stage II Vapor Recovery. Other major revisions to the SIP include the amendments of regulation for Sources in Nonattainment Areas, Applicability, Compliance Schedules for Sources in Nonattainment Areas, Alternative Compliance Schedules, Exception from Compliance Schedules, Gasoline Service Stations Stage I, Gasoline Truck Tanks, and Vapor Collection Systems, Petroleum Liquid Storage in External Floating Roof Tanks, and Petition for Alternative Controls.

DATES: This action is effective April 1, 1996 unless notice is received by March 4, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to:

Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365

Copies of the material submitted by the NCDEHNR may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection

Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

North Carolina Department of Environment, Health and Natural Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604

FOR FURTHER INFORMATION CONTACT: Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 x4212.

SUPPLEMENTARY INFORMATION: On August 15, 1994, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions covering the adoption of new air quality rules, and amendments to existing air quality rules that were the subject of public hearings held on February 24, and 28, 1994. This submittal led to several EPA comments that were addressed in a second submittal received by EPA on May 26, 1995. The second submittal was the subject of a public hearing on February 1, 1995.

EPA is approving the following new rules and revisions of existing rules in the North Carolina SIP. These new rules and revisions are consistent with the requirements of the Clean Air Act and EPA guidance.

.0531 Sources in Nonattainment Areas

This rule has been amended to extend its coverage to a 1992 ozone nonattainment area that has been redesignated attainment if a violation of the ambient air quality standard occurs after the redesignation to attainment. The coverage would be extended by the Director noticing in the *North Carolina Register* that the area is in violation of the ambient air quality standard for ozone.

.0902 Applicability

This rule has been amended to extend coverage of section 15A NCAC 2D. .0900 Volatile Organic Compounds, to a 1992 ozone nonattainment area that has been redesignated attainment if a violation of the ambient air quality standard occurs after the redesignation to attainment. Permitted facilities within the area of violation that are or may be subject to this section will also receive written notification.

.0907 Compliance Schedules for Source in Nonattainment Areas

This rule has been amended to clarify its applicability.

.0909 Compliance Schedules for Sources in New Attainment Areas

This rule has been amended to provide compliance schedules by which sources brought under the rules in section 15A NCAC 2D .0900, Volatile Organic Compounds (VOCs), because of the Director's notice in the *North Carolina Register,* can come into compliance.

.0928 Gasoline Service Stations Stage I

This rule has been amended to clarify Stage I control requirements. The rule has been clarified to show that it applies to both the delivery vessels and the station and that the delivery vessel and vapor collection system at the station are to meet the pressure and vacuum specifications of 15A NCAC 2D .0932 Gasoline Truck Tanks and Vapor Collections Systems. An exemption has been added for farm tanks less than 2000 gallons and for tanks used exclusively to test fuel dispensing meters.

.0932 Gasoline Truck Tanks and Vapor Collection Systems

This rule has been amended to clarify that annual testing of vapor collection systems is required only at bulk gasoline plants and bulk gasoline terminals.

.0933 Petroleum Liquid Storage in External Floating Roof Tanks

This rule has been amended to exempt external floating tanks of welded construction equipped with a metallic type shoe primary seal and a shoe mounted secondary seal from the secondary seal requirement and not from the entire rule.

.0952 Petition for Alternative Controls

This rule has been amended to extend it to areas that become subject to section 15A NCAC 2D .0900, VOCs, because of notice that the area is in violation of the ambient air quality standard for ozone.

.0953 Vapor Return Piping for Stage II Vapor Recovery

This rule has been adopted to require piping for Stage II vapor recovery controls to be installed at new gasoline service stations and tanks in the 1992 ozone nonattainment areas. This rule contains the specifications for Stage II vapor recovery piping.

.0954 Stage II Vapor Recovery

This rule has been adopted because it contains the specifications for stage II vapor recovery controls. This rule is a contingency measure that applies to all facilities, in areas that are or will be designated nonattainment for ozone, that dispense gasoline unless the facility has met the criteria to be exempted. The following gasoline dispensing facilities are exempt from this rule.

1. Any facility which dispenses 10,000 gallons or less of gasoline during calendar month;
2. Any facility which dispenses 50,000 gallons or less during calendar month and is an independent small business marketer of gasoline;
3. Any facility which dispenses gasoline exclusively for refueling marine vehicles, aircraft, farm equipment, and emergency vehicles; or
4. Any tanks used exclusively to test the fuel dispensing meters.

In addition to the above revisions EPA is approving a revision applicable to the following Sections: 15A NCAC 2D .0902, .0907, .0910, .0911, .0952, and.0954. This revision adjusts final compliance dates, for VOC sources located in nonattainment areas, to allow reasonable time frames for implementation.

Final Action

EPA is approving the above referenced revisions to the North Carolina SIP. This action is being taken without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 1, 1996 unless, March 4, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the separate proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 1, 1996.

Under section 307(b)(1) of the CAA, 42 U.S.C. 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality

of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain duties. To the extent that the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon Monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 3, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart II—North Carolina

2. Section 52.1770, is amended by adding paragraph (c)(88) to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(88) The VOC RACT regulations, NSR regulations, and other miscellaneous revisions to the North Carolina State Implementation Plan which were submitted on August 15, 1994. The Stage II regulations and other miscellaneous revisions to the North Carolina State Implementation Plan which were submitted on May 24, 1995.

(i) Incorporation by reference.

(A) Regulations 15A NCAC 2D .0531, .0909, .0928, .0932, .0933, and .0953 effective on July 1, 1994.

(B) Regulations 15A NCAC 2D .0902, .0907, .0910, .0911, .0952, and .0954 effective on May 1, 1995.

(ii) Other material. None.

* * * * *

[FR Doc. 96–1939 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[OH60–1–6377a; FRL–5410–1]

Approval and Promulgation of Air Quality Implementation Plans, and Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The USEPA is approving the ozone State Implementation Plan (SIP) revision and redesignation requests submitted by the State of Ohio for the purpose of redesignating Franklin, Delaware, and Licking Counties (Columbus area) from marginal nonattainment to attainment for ozone; and revising Ohio's SIP to include a 1990 base-year ozone precursor emissions inventory for the Columbus ozone nonattainment area. Ground-level ozone, commonly known as smog, is an air pollutant which forms on hot summer days which harmfully affects lung tissue and breathing passages. The redesignation to attainment of the health-based ozone air quality standard is based on a request from the State of Ohio to redesignate this area and approve its maintenance plan, and on the supporting data the State submitted in support of the requests. Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such change, and a maintenance plan is put in place which is designed to ensure the area maintains the ozone air quality standard for the next ten years. The emissions inventory was submitted to satisfy a Federal requirement that States containing ozone nonattainment areas submit

inventories of actual ozone precursor emissions for the year 1990. Data from emission inventories aide States in developing plans to meet and/or maintain the ozone air quality standard.

DATES: The ''direct final'' is effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 4, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the revision request and USEPA's analysis (Technical Support Document) are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone William Jones at (312) 886–6058 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: William Jones at (312) 886–6058.

SUPPLEMENTARY INFORMATION: On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (CAA). Pub. L. 101–549, codified at 42 U.S.C. 7401–7671q. Pursuant to Section 107(d)(4)(A) of the CAA, Franklin, Delaware, and Licking Counties (Columbus area) were designated as nonattainment for ozone, see 56 FR 56694 (November 6, 1991). At the same time, the Columbus area was classified as a marginal ozone nonattainment area.

I. Emissions Inventories

Section 182(a)(1) of the Clean Air Act Amendments of 1990 (Act) requires States with ozone nonattainment areas to submit a comprehensive, accurate and current inventory of actual ozone precursor emissions [which include volatile organic compounds (VOC), nitrogen oxides (NO_X), and carbon monoxide (CO)] for each ozone nonattainment area by November 15, 1992. This inventory must include anthropogenic base-year (1990) emissions from stationary point, area, non-road mobile, and on-road mobile sources, as well as biogenic (naturally occurring) emissions in all ozone nonattainment areas. The emissions inventory must be based on conditions that exist during the peak ozone season (generally the period when peak hourly ozone concentrations occur in excess of the primary ozone National Ambient Air Quality Standard—NAAQS). Ohio's annual ozone season is from April 1 to October 31.

A. Criteria for Evaluating Ozone Emissions Inventories

Guidance for preparing and reviewing the emission inventories is provided in the following USEPA guidance documents or memoranda: ''State Implementation Plans; General Preamble for the Implementation of Title I of the Act,'' (Preamble) published in the April 16, 1992 Federal Register (57 FR 13498); ''Emission Inventory Requirements for Ozone State Implementation Plans,'' (EPA–450/4–91–010) dated March 1991; a memorandum from John Calcagni, Director, Air Quality Management Division, Office of Air Quality Planning and Standards, entitled ''Public Hearing Requirements for the 1990 Base-Year Emissions Inventories for Ozone and Carbon Monoxide Nonattainment Areas,'' dated September 29, 1992; ''Procedures for the Preparation of Emissions Inventories for Carbon Monoxide and Precursors of Ozone, Volumes I and II,'' (EPA–450/4–91–016 and EPA–450/4–91–014) dated May 1991; ''Procedures for Emissions Inventories Preparation, Volume IV: Mobile Sources,'' (EPA–450/4–81–026d) dated 1992; and ''Supplement C to Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources,'' (AP–42) dated September 1990.

As a primary tool for the review of the quality of emission inventories, the USEPA has also developed three levels (I, II, and III) of emission inventories checklists. The Level I and II checklists are used to determine that all required components of the base-year emission inventory and associated documentation are present. These reviews also evaluate the level of quality of the associated documentation and the data provided by the State and assess whether the emission estimates were developed according to the USEPA guidance. The Level III review evaluates crucial aspects and the overall acceptability of the emission inventory submittal. Failure to meet one of the ten crucial aspects would lead to disapproval of the emissions inventory submittal.

Detailed Level I and II review procedures can be found in the USEPA guidance document entitled ''Quality Review Guidelines for 1990 Base Year Emissions Inventories,'' (Quality Review) (EPA–454/R–92–007) dated August 1992. Level III criteria were attached to a memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled ''Emission Inventory Issue,'' dated June 24, 1993. The Level I, II, and III checklists used in reviewing this emissions inventory submittal are attached to a USEPA technical support document (TSD) dated October 3, 1995.

B. State Submittal

On March 15, 1994, the Ohio Environmental Protection Agency (OEPA) submitted a revision to the ozone portion of Ohio's SIP which consisted of the 1990 base-year ozone emissions inventory for the following ozone nonattainment areas in Ohio: Canton, Cincinnati, Cleveland, Columbus, Dayton, Toledo and Youngstown. The emissions inventory for the Columbus area was deemed complete on September 13, 1994. The USEPA has completed its review of the emissions inventory submitted for the Columbus ozone nonattainment area. The 1990 base-year emissions inventories submitted for all other areas are addressed in separate rulemakings.

Inventory Preparation Plan/Quality Assurance Plan

All States were required to submit an Inventory Preparation Plan (IPP) to USEPA for review and approval by October 1, 1991. The IPP documents the procedures utilized in the development of an emissions inventory and contains the quality assurance and quality control plan (QA/QC). On March 19, 1992, the State of Ohio submitted a final ozone emissions IPP. On April 15, 1992, USEPA informed the State that the IPP was not approvable at the time. The USEPA has worked with the State since that time in order to correct deficiencies in the IPP. With the March 1994 SIP revision request, the State submitted documentation as to how the emissions inventory was prepared, as well as a quality assurance report for the point, area, and mobile source portions of the emissions inventory. The USEPA finds that this documentation and quality assurance reports are acceptable to meet the requirements of an IPP.

Point Source Emissions Inventory

The State submitted a point source emissions inventory of all facilities that emit at least 10 tons per year (tpy) of VOC, or 100 tpy NO_X or CO in the nonattainment area. The State also included sources that emit 100 tpy of VOC, CO, or NO_X located in a 25-mile boundary surrounding the nonattainment area. The point source emissions inventory contains general facility information, number of sources, production schedules and related emissions for each source, emissions limitation, control efficiency and rule

effectiveness (RE), as applicable, and total emissions on an annual and daily ozone season basis. (Rule effectiveness is a factor designed to take into account the assumption that control equipment does not operate at 100 percent all of the time of source operation, due to maintenance, malfunction, etc.)

The following methods were employed by the State to identify sources to be included in the 1990 base-year emissions inventory: the 1989 records for plants in the Emissions Inventory System (EIS) were checked and plants meeting the VOC, CO or NO_X criteria were updated with 1990 emissions data; the air permit records were reviewed for plants that may be candidates for inclusion in the point source inventory; and current industrial directories and the Toxic Release Information System (TRIS) database were checked for additional sources. For facilities in the point source inventory, the State acquired the emissions data by means of the following: mail surveys; plant inspections; telephone calls; and air permit files.

The USEPA reviewed the point source emissions data by cross referencing the point source inventory to the following sources: (1) USEPA's guidance document entitled ''Major CO, NO_2, and VOC Sources in the 25–Mile Boundary Around Ozone Nonattainment Areas, Volume I: Classified Ozone Nonattainment Areas,'' (EPA–450/4–92–005a) February 1992; a 1990 TRIS Retrieval; and a 1990 Aerometric Inventory Retrieval System (AIRS) Facility Subsystem (AFS) AFS—Emission to Compliance Comparison Report. The State was notified of any potentially missing sources or discrepancies in their reported emissions and provided any corrections necessary.

Where a source was governed by a regulation or a control device, the emissions limit was stated. A RE factor was then applied in the determination of emissions. In accordance with USEPA guidance, a standard RE factor of 80 percent was utilized unless otherwise justified.

Area Source Emissions Inventory

Area source emissions were calculated using State-specific data as well as USEPA guidance documents and technical memoranda developed for various categories. The State utilized emission factors from ''Procedures for the Preparation of Emission Inventories of Carbon Monoxide and Precursors of Ozone, Volume I: General Guidance for Stationary Sources, and IV: Mobile Sources,'' and AP–42 and provided necessary documentation. The following area source categories were included in the emissions inventory: Gasoline loading and distribution, dry cleaning, degreasing, architectural surface coatings, traffic markings, automobile refinishing, graphic arts, cutback asphalt, pesticide application, commercial/consumer solvents, bakeries, waste management practices (landfills), leaking underground storage tanks, incineration of solid waste, stationary fossil fuel combustion, and fires (structural, open burn, etc.). Vehicle refueling emissions were included as part of the mobile source emissions inventory.

The area source inventory was reviewed utilizing USEPA's guidance documents, and the Level I and II checklists, to ensure that all source categories and their related emissions (and emission factors) were included in the area source emissions inventory. Seasonal adjustments, rule effectiveness, and rule penetration factors were applied as indicated in the State submittal.

On-Road Mobile Source Emissions Inventory

In the development of the mobile source emissions inventory, the State of Ohio utilized USEPA's mobile source emissions model, Mobile 5a, for the determination of the emission factors for all eight vehicle types. Hard-copy documentation of the input and output files were provided in the submittal. Where available, State-specific inputs were utilized in the development of the input files for Mobile 5a.

The 1990 vehicle miles travelled (VMT) for each of the twelve roadway types were developed by the Ohio Department of Transportation (ODOT). ODOT maintains data on each section of highway in the State of Ohio. VMT values were developed by ODOT and entered in the State Road Inventory System (SRIS). The data from the SRIS was reported to the Federal Highway Administration (FHWA) by utilizing the Highway Performance Monitoring System (HPMS).

The daily VMT (dVMT) for each roadway section was computed as the annual average daily traffic (AADT) count for that section multiplied by the length of the section. The total county DVMT is the sum of the dVMTs for each of the twelve highway classifications in the county. The total county DVMTS are then summed to determine the statewide total DVMTS.

In order to determine consistency between the SRIS and the HPMS, the statewide total DVMTS are then compared by functional class to the HPMS submittal. For those classifications where traffic counts are available for all or nearly all their sections, the totals between the two systems were essentially the same. For those with more off-systems roads, the resulting SRIS totals were larger than the HPMS's submittal value (as expected). Correction factors were computed from the two sets of totals and applied to the individual cells.

ODOT used permanent and portable vehicle classification equipment to develop the vehicle mix by functional classification of highway. Traficomp III vehicle classification equipment are used to support the HPMS data collection effort. A software program called OHIO CONVERT formats vehicle classification data into the FHWA Vehicle Classification categories.

Off-Road Mobile Source Emissions Inventory

The State developed emissions estimates for the following off-road categories according to USEPA guidance: aircraft, railroad locomotives, recreational boating, off-road motorcycles, agricultural equipment, construction equipment, industrial equipment, and lawn and garden equipment. Documentation was provided as to the sources of emissions factors utilized and were submitted in the area source emissions inventory portion of the submittal.

The off-road mobile source inventory was reviewed utilizing the Level I and II checklists and USEPA's guidance documents to ensure that all source categories and their related emissions factors were included in the off-road mobile source emissions inventory.

Biogenic Emissions Inventory

The State of Ohio determined the biogenic emissions for the Columbus area according to a USEPA's guidance document entitled ''User's Guide to the Personal Computer Version of the Biogenic Emissions Inventory System (PC-BEIS),'' (EPA–450/4–91–017) dated July, 1991. Meteorological data utilized in PC-BEIS was collected in accordance with USEPA guidance. Data from the ten warmest days from the period between 1988 to 1990 with the highest hourly peak ozone concentrations in each ozone nonattainment area was collected and reviewed. As required by USEPA guidance, the fourth highest daily maximum ozone concentration for each nonattainment area was selected and utilized in the model. The State provided hard copy documentation as to the meteorological inputs utilized and PC-BEIS output files for the biogenic emissions inventory for the Columbus nonattainment areas.

C. Summary of Ozone Emissions Inventory

A summary has been prepared of the emissions inventory for an average ozone summer weekday for the Columbus ozone nonattainment area as follows. The emissions are stated in tons per ozone season weekday:

TABLE 1.—COLUMBUS OZONE NON-ATTAINMENT AREA, 1990 BASE-YEAR EMISSIONS INVENTORY

[tons per day]

Source type	VOC	CO	NO_x
Point Sources	16.44	8.52	13.79
Area Sources	53.56	9.09	7.37
On-Road Mobile Sources	94.73	580.75	78.65
Off-Road Mobile Sources	47.62	438.21	89.31
Biogenic Sources	105.92		
Totals .	318.27	1,036.57	189.12

II. Ozone Redesignation Request

The OEPA requested that the area be redesignated in a letter dated January 7, 1994, and received by USEPA on January 14, 1994. The public hearing information portion was transmitted to USEPA in a letter from Robert Hodanbosi, Chief of the Division of Air Pollution Control, OEPA, dated April 11, 1994, and received by USEPA on April 14, 1994.

The State provided monitoring, and emissions data to support its redesignation request. The review criteria and a review of the request are provided below.

A. Redesignation Review Criteria

Under the CAA, designations can be changed if sufficient data are available to warrant such change. The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, Section 107(d)(3)(E) provides for redesignation if: (i) The Administrator determines that the area has attained the National Ambient Air Quality Standard (NAAQS); (ii) The Administrator has fully approved the applicable implementation plan for the area under Section 110(k); (iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of Section 175A; and (v) The State containing such area has met all requirements applicable to the area under Section 110 and Part D.

The USEPA has provided guidance on processing redesignation requests in documents including the following:

1. ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994.

2. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.

3. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993.

4. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (ACT) Deadlines,'' John Calcagni, Director, Air Quality Management Division, October 28, 1992.

5. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992.

6. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992.

7. State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (57 FR 13498), April 16, 1992.

B. Review of the Redesignation Request

1. The Area Must Have Attained the Ozone NAAQS

For ozone, an area may be considered attaining the NAAQS if there are no violations, as determined in accordance with the regulation codified at 40 CFR § 50.9, based on three (3) consecutive calendar years of quality assured monitoring data. A violation occurs when the ozone air quality monitoring data show greater than one (1) average expected exceedance per year at any site in the area at issue. An exceedance occurs when the maximum hourly ozone concentration exceeds 0.124 parts per million (ppm). The data should be collected and quality-assured in accordance with 40 CFR Part 58, and recorded in the Aerometric Information Retrieval System (AIRS) in order for it to be available to the public for review.

The redesignation request for the Columbus area relies on ozone monitoring data for the years 1990 through 1992, to show that they are meeting the NAAQS for ozone. Ozone monitoring data for 1993 and 1994 continue to show that the area has reached attainment. The Columbus area is currently meeting the requirement of attaining the ozone NAAQS.

The ozone monitoring network consists of three monitors. Two of the monitors are located in Franklin County and one is located in Licking County. No monitors are currently located in Delaware County; however, the other monitors in Franklin and Licking Counties adequately represent the entire Columbus area. Two exceedances of the ozone standard have been monitored since 1990, both of these occurred at the Maple Canyon monitor in Franklin County. At this site, the first exceedance of 0.128 ppm occurred in 1990, and the second exceedance of 0.131 ppm occurred in 1991. Data stored in AIRS was used to determine the annual average expected exceedances for the years 1992, 1993, and 1994. Data contained in AIRS have undergone quality assurance review by the State and USEPA. Since the annual average number of expected exceedances for each monitor during the most recent three years is less than 1.0, the Columbus-Springfield area is considered to have attained the standard.

2. The Area Must Have a Fully Approved SIP Under Section 110(k); and the Area Must Have Met All Applicable Requirements Under Section 110 and Part D

Before the Columbus area may be redesignated to attainment for ozone, it must have fulfilled the applicable requirements of section 110 and part D. USEPA interprets section 107(d)(3)(E)(v) to mean that, for a redesignation request to be approved, the State must have met all requirements that became applicable to the subject area prior to or at the time of the submission of the redesignation

request. As the Columbus redesignation request was submitted to USEPA in January, 1994, requirements that came due prior to that time must be met for the request to be approved. Section 110 and Part D requirements of the CAA that come due subsequent to the submission of the redesignation request continue to be applicable to the area (*see* section 175A(c)) and, if the redesignation is disapproved, the State remains obligated to fulfill those requirements.

Section 110 Requirements

General SIP elements are delineated in section 110(a)(2) of Title I, Part A. These requirements include but are not limited to the following: submittal of a SIP that has been adopted by the State after reasonable notice and public hearing, provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality, implementation of a permit program, provisions for Part C, Prevention of Significant Deterioration (PSD), and D, New Source Review (NSR) permit programs, criteria for stationary source emission control measures, monitoring and reporting, provisions for modeling, and provisions for public and local agency participation. For purposes of redesignation, the Ohio SIP was reviewed to ensure that all requirements under the amended Act were satisfied. On October 31, 1980, the USEPA conditionally approved Ohio's SIP under Part D of Title I (as amended in 1977) (45 FR 27122). The Ohio VOC Reasonably Available Control Technology (RACT) requirements, or requirements for certain stationary sources to use technically and economically feasible technology to reduce emissions of VOC, are being addressed in a separate TSD and Federal Register actions, (59 FR 23796 and 60 FR 15235), except for a few outstanding requirements in the Cleveland and Cincinnati areas. There are no outstanding VOC RACT requirements for the Columbus area, as explained under ''Part D Requirements'' below.

Part D Requirements

Under part D, an area's classification determines the requirements to which it is subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a). As described in the General Preamble for the Implementation of Title I, specific requirements of subpart 2 may override subpart 1's general provisions [57 FR at 13501 (April 16, 1992)]. The Columbus area was classified as marginal. Therefore, in order to be redesignated to attainment, the State must meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176, as well as the applicable requirements of subpart 2 of part D that apply to marginal areas such as Columbus.

(a) Section 172(c) Requirements

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than 3 years after an area has been designated as nonattainment under the amended CAA. Furthermore, as noted above, some of these section 172(c) requirements are superseded by more specific requirements in subpart 2 of part D. In the case of Columbus, the State has satisfied all of the section 172(c) requirements necessary for Columbus to be redesignated upon the basis of the redesignation request submitted on January 7, 1994, and April 14, 1994.

The Columbus area was designated marginal nonattainment on November 6, 1991 (56 FR at 56694), effective January 6, 1992). In the case of marginal ozone nonattainment areas, the section 172(c)(1) Reasonably Available Control Measures requirement was superseded by the section 182(a)(2) RACT requirements, which did not require nonattainment areas designated marginal after enactment of 1990 CAA amendments to submit RACT corrections. See General Preamble for the Implementation of Title I, 57 FR at 13503, and the VOC RACT Fix-up rulemaking published at 58 FR 49458. Thus, no additional RACT submissions were required for the Columbus area to be redesignated. Also, by virtue of provisions of section 182(a), which provides that any area designated as marginal does no have to submit an attainment demonstration.

With respect to the section 172(c)(2) Reasonable Further Progress (RFP) requirement, as Columbus has attained the ozone NAAQS no RFP requirements apply. *See* General Preamble for the Implementation of Title I, 57 FR at 13564.

The section 172(c)(3) emissions inventory requirement has been met by the submission and approval (in this action) of the 1990 base year inventory required under subpart 2 of part D, section 182(a)(1).

As for the section 172(c)(5) NSR requirement, USEPA has determined that areas being redesignated need not comply with the NSR requirement prior to redesignation provided that the area demonstrates maintenance of the standard without part D NSR in effect. A memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' fully describes the rationale for this view, and is based on the Agency's authority to establish *de minimis* exceptions to statutory requirements. *See Alabama Power Co.* v. *Costle*, 636 F. 2d 323, 360–61 (D.C. Cir. 1979). As discussed below, the State of Ohio has demonstrated that the Columbus area will be able to maintain the standard without part D NSR in effect and, therefore, the State need not have a fully-approved part D NSR program prior to approval of the redesignation request for Columbus. Once the area is redesignated to attainment, the PSD program (applicable to attainment areas), which has been delegated to Ohio, will become effective immediately. The PSD program was delegated to Ohio on May 1, 1980, and amended November 7, 1988. *See* 40 C.F.R. 52.21(u)

The section 172(c)(9) contingency measure requirements also do not apply to marginal ozone nonattainment areas. *See* section 182(a) and 57 FR at 13571.

Finally, for purposes of redesignation, the Columbus SIP was reviewed to ensure that all requirements of section 110(a)(2), containing general SIP elements, were satisfied. As noted above, USEPA believes the SIP satisfies all of those requirements.

(b) Section 176 Conformity Requirements

Section 176(c) of the Act requires States to revise their SIPs to establish criteria and procedures to ensure that, before they are taken, Federal actions conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act (''transportation conformity''), as well as to all other Federal actions (''general conformity'').

The USEPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188), and general conformity regulations on November 30, 1993 (58 FR 63214). Pursuant to section 51.396 of the

transportation conformity rule and section 51.851 of the general conformity rule, the State of Ohio is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994, and November 30, 1994, respectively. Because the redesignation request was submitted before these SIP revisions came due, they are not applicable requirements under section 107(d)(3)(E)(v) and, thus, do not affect approval of this redesignation request.

(c) Subpart 2 Requirements

Marginal ozone nonattainment areas are subject to the requirements of section 182(a) of subpart 2. Ohio has met all of the applicable requirements of that subsection with respect to the Columbus area. The emissions inventory required by section 182(a)(1) is being approved in this action. The emission statement SIP required by section 182(a)(3)(B) was approved on October 13, 1994. *See* 59 FR 51863. As noted above, RACT corrections are not required under section 182(a)(2) for areas such as Columbus that were not designated nonattainment until after the 1990 CAA Amendments. Similarly, section 182(a)(2) does not require the submission of inspection and maintenance SIP revisions for Columbus since the area was not required to have an I/M program before the enactment of the 1990 CAA Amendments. Finally, the State need not comply with the requirements of section 182(a) concerning revisions to the part D NSR program in order for the Columbus area to be redesignated for the reasons explained above in connection with the discussion of the section 172(c)(5) NSR requirement.

3. The Improvement in Air Quality Must Be Due to Permanent and Enforceable Reductions in Emissions Resulting From the SIP, Federal Measures and Other Permanent and Enforceable Reductions

The submittal demonstrates that the improvement in air quality is due to emissions reductions due to the Federal Motor Vehicle Emissions Control Program (FMVECP). This program is codified in 40 CFR Part 86. Between 1988 and 1990 the area's volatile organic compound emissions were reduced by 2.7 percent, due to FMVECP. This trend is expected to continue in the area with a ten (10) percent reduction in overall emissions by 1996 due to the FMVECP program and Federal restrictions on gasoline volatility. Based on this reduction, the State has shown that the improvement in air quality is based on permanent and enforceable reductions in emissions.

As was already discussed, this area is not required to adopt new enforceable regulations in order to meet the CAA requirements of section 110 and Part D. Therefore, USEPA believes that it is reasonable to attribute the improvement in air quality to be due just to Federal measures and it is not necessary in this case to link emission reduction to enforceable regulations in the SIP.

4. The Area Must Have a Fully Approved Maintenance Plan Meeting the Requirements of Section 175A

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan is a SIP revision which provides for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation. A September 4, 1992, USEPA memorandum from the Director of the Air Quality Management Division, Office of Air Quality Planning and Standards, to Directors of Regional Air Divisions regarding redesignation provides further guidance on the required content of a maintenance plan.

An ozone maintenance plan should address the following five areas: the attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment and a contingency plan. The attainment emissions inventory identifies the emissions level in the area which is sufficient to attain the ozone NAAQS, and includes emissions during the time period which had no monitored violations. Maintenance is demonstrated by showing that future emissions will not exceed the level established by the attainment inventory. Provisions for continued operation of an appropriate air quality monitoring network are to be included in the maintenance plan. The State must show how it will track and verify the progress of the maintenance plan. Finally, the maintenance plan must include contingency measures which ensure prompt correction of any violation of the ozone standard.

The State has included a copy of the base year 1990 emissions inventory as the attainment inventory. The Columbus maintenance plan provides emissions estimates from 1990 to 2005 for volatile organic compounds (VOCs), and from 1990 to 2005 for oxides of nitrogen (NO_X) for the Columbus area. These emissions estimates have been revised based on comments that Ohio received from USEPA, and the tables reflect the revised emissions estimates. These estimates are consistent with the base year 1990 emissions inventory for the area. The emissions in the Columbus area are projected to decrease. The results of this analysis show that the area is expected to maintain the air quality standard for at least ten (10) years into the future.

The emissions summary for VOCs and NO_X are provided below for the Columbus area:

TABLE 2.—VOC EMISSIONS IN TONS PER SUMMER DAY

Year	Point Sources	Area Sources	Mobile Sources	Totals
1990	16.44	101.18	94.73	212.35
1996	17.52	107.47	63.36	188.35
2005	19.33	117.30	61.38	198.01

TABLE 3. NO_X EMISSIONS IN TONS PER SUMMER DAY

Year	Point Sources	Area Sources	Mobile Sources	Totals
1990	13.79	96.68	78.65	189.12
1996	14.35	102.62	68.85	185.82
2005	15.27	111.82	61.24	188.33

The State also commits to continuing the operation of the monitors in the area. It will also track the maintenance of the area by regularly updating the emissions inventory for the area. The emission projections for 2005 are the budgets for transportation conformity.

The State commits to Automobile Inspection and Maintenance (I/M) as the first contingency measure. This first measure would be triggered by a violation of the NAAQS. The second contingency measure is Stage II vapor recovery. If both measures are implemented, the area will choose additional measures. The State also provided the following schedule in Table 4 for implementing the I/M measure. Based on these measures, the maintenance requirement has been met.

TABLE 4.—SCHEDULE FOR IMPLEMENTING I/M

Date	Action/Event
Contingency Triggered	Initiate contingency I/M plan measures. New legislative authority will not be necessary for implementation.
Month 1/Day 1	Begin revisions to Request for Proposals (RFP). Coordinate with appropriate agencies. Begin drafting rules for I/M program, procedures and guidelines.
Month 2/Day 1	Release RFP for centralized contractor.
Month 3/Day 1	File draft rule rev. with Legislative Serv. Commission.
Month 4/Day 15	Public hearing on program rule revisions.
Month 4/Day 30	Rules approved by Joint Committee on Agency Rule Review. RFP responses for centralized contract due.
Month 5/Day 1	Begin evaluation of RFP responses.
Month 6/Day 15	Award centralized contract. Seek Controlling Board approval of contract(s) by end of month 7.
Month 6/Day 30	Program rule revisions become effective.
Month 7/Day 1	Draft RFPs for Ohio EPA (BAR 90) approved analyzer certification, if necessary, and inspector certification training in the Columbus metropolitan area.
Month 8/Day 1	Release RFPs for inspector certification training and analyzer certification services.
Month 9/Day 15	Proposals for analyzer certification services (ACS) and inspector certification training (ICT) due.
Month 9/Day 16	Begin evaluation of proposals for ACS and ICT.
Month 10/Day 1	Award contracts for ACS and ICT.
Month 11/Day 1	Begin licensing process for reinspection stations.
Month 12/Day 1	New Analyzer spec. issued. Begin certifying four-gas analyzers.
Month 14/Day 1	Inspector certification begins
Month 15/Day 1	Begin final licensing of reinspection stations.
Month 16/Day 1	Initiate Public Relations program including media blitz.
Month 16/D 15	Initiate motorist notification mailings.
Month 17/Day 1	Begin limited voluntary inspections at centralized test stations. Reinspection stations begin to perform retests.
Month 18/Day 1	Begin mandatory testing at centralized test stations.

Transport of Ozone Precursors to Downwind Areas

Preliminary modeling results utilizing USEPA's regional oxidant model (ROM) indicate that ozone precursor emissions from various States west of the ozone transport region (OTR) in the northeastern United States contribute to increases in ozone concentrations in the OTR. The State of Ohio has provided documentation that VOC and NO_X emissions in the Columbus area will remain below attainment levels for the next ten years. If the monitored air quality levels exceed the NAAQS, then the contingency plan will be triggered. In addition, Ohio is required to submit a revision to the maintenance plan eight years after redesignation to attainment which demonstrates that the NAAQS will be maintained until the year 2015. The USEPA is currently developing policy which will address long range impacts of ozone transport. The USEPA is working with the States and other organizations to design and complete studies which consider upwind sources and quantify their impacts. The USEPA intends to address the transport issue through section 110 based on a domain-wide modeling analysis.

Rulemaking Action

The USEPA is approving the 1990 base-year ozone precursor emissions inventories for the Columbus nonattainment area as meeting the requirements of section 182(a)(1) of the CAA based upon the evidence presented by the State and the State's compliance with the requirements outlines in the applicable USEPA guidance. In addition, the USEPA is also approving the redesignation of the Columbus ozone nonattainment area to attainment for ozone since Ohio's request meets the conditions of the CAA in section 107(d)(3)(E) for redesignation.

VI. Comment and Approval Procedure

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval of the Columbus area emissions inventory shall be effective on April 1, 1996, unless USEPA receives adverse or critical comments by March 4, 1996. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw that approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. It should be noted, however, that an adverse or critical comment on the approval of the Columbus area redesignation request or maintenance plan will not result in a withdrawal of the approval of the Columbus emission inventory, unless USEPA receives adverse or critical comments on the emission inventory approval, as well. All public comments received will be addressed in a subsequent rulemaking document. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on April 1, 1996.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing, or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Hydrocarbons, Nitrogen oxides, Ozone, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Note:—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 30, 1995.

Valdas V. Adamkus,

Regional Administrator.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

2. Section 52.1885 is amended by adding new paragraph (u) to read as follows: § 52.1885 Control Strategy: Ozone.

* * * * *

(u) Approval—The 1990 base-year ozone emissions inventory requirement of Section 182(a)(1) of the Clean Air Act has been satisfied for the Columbus ozone nonattainment area (which includes the Counties of Delaware, Franklin, and Licking).

3. Section 52.1885 is amended by adding paragraph (b)(6) to read as follows:

§ 52.1885 Control strategy: Ozone.

* * * * *

(b) * * *

(6) Franklin, Delaware, and Licking Counties.

* * * * *

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PURPOSES—OHIO

1. The authority citation of Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q, unless otherwise noted.

2. In § 81.336 ozone table is amended by revising entries for the Franklin, Delaware, and Licking Counties to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—OZONE

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * * * * *				
Columbus Area				
Delaware County	April 1, 1996	Attainment.		
Franklin County	April 1, 1996	Attainment.		
Licking County	April 1, 1996	Attainment.		
* * * * * * *				

[1]This date is November 15, 1990, unless otherwise noted.

[FR Doc. 96–1933 Filed 1–31–96; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 281

[FRL–5406–6]

Montana; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on State of Montana application for final approval.

SUMMARY: The State of Montana has applied for final approval of its underground storage tank program under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the Montana application and has reached a final determination that Montana's underground storage tank (UST) program satisfies all of the requirements necessary to qualify for final approval. Thus, EPA is granting final approval to the State to operate its program in lieu of the Federal program.

EFFECTIVE DATE: Final approval for Montana shall be effective at 1:00 pm Eastern Time on March 4, 1996.

FOR FURTHER INFORMATION CONTACT: Kris Knutson, U.S. EPA, Region 8, Montana Office, DWR 10096, 301 South Park, Helena, Montana 59626–0096, phone: (406) 441–1130, extension 225.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA) enables EPA to approve state underground storage tank programs to operate in the State in lieu of the Federal underground storage tank (UST) program. Program approval is granted by EPA if the Agency finds that the State program: (1) is ''no less stringent'' than the Federal program in all seven elements, and includes notification requirements of section 9004(a)(8), 42 U.S.C. 6991c(a)(8); and (2) provides for adequate enforcement of compliance with UST standards (section 9004(a), 42 U.S.C. 6991c(a)).

On February 22, 1995, Montana submitted an application for ''complete'' program approval which includes regulation of both petroleum and hazardous substance tanks. The State of Montana established authority through an amendment to the 1981 Montana Hazardous Waste Act to implement an underground storage tank program. The State changed the title of the Act to the Montana Hazardous Waste and Underground Storage Tank Act in April 1985, and further amended the Act in 1989 to expand rulemaking authority. Another amendment in 1993 provided the State with rulemaking authority to assess civil penalties.

On September 22, 1995, EPA published a tentative decision announcing its intent to grant Montana final approval. Further background on the tentative decision to grant approval appears at 60 FR 49239, September 22, 1995. Along with the tentative determination, EPA announced the availability of the application for public comment and provided notice that a public hearing would be provided if significant public interest was shown. EPA received only one comment on the application and no request for a public hearing. Therefore, a hearing was not held.

B. Decision

I conclude that Montana's application for final approval meets all of the statutory and regulatory requirements established by Subtitle I of RCRA. Accordingly, Montana is granted final approval to operate its underground storage tank program in lieu of the Federal program. Montana now has the responsibility for managing underground storage tank facilities within its borders and carrying out all aspects of the UST program except with regard to ''Indian Country,'' as defined in 18 U.S.C. 1151, where EPA will retain and otherwise exercise regulatory authority. ''Indian Country'' includes the following Indian reservations in the State of Montana:

1. Blackfeet;
2. Crow;
3. Flathead;
4. Fort Belknap;
5. Fort Peck;
6. Northern Cheyenne; and
7. Rocky Boys.

The Environmental Protection Agency retains all underground storage tank authority under RCRA which applies to ''Indian Country'' in Montana.

Before EPA would be able to approve the State of Montana UST program for any portion of ''Indian Country,'' the State would have to provide an appropriate analysis of the State's jurisdiction to enforce in these areas. In order for a state to satisfy this requirement, it must demonstrate to the EPA's satisfaction that it has authority pursuant to applicable principles of Federal Indian Law to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval. EPA has reason to believe that disagreement exists with regard to the State's jurisdiction over ''Indian Country,'' and EPA is not satisfied that Montana has, at this time, made the requisite showing of its authority with respect to such lands.

In withholding program approval for these areas, EPA is not making a determination that the State either has adequate jurisdiction or lacks such jurisdiction. Should the State of Montana choose to submit analysis with regard to its jurisdiction over all or part of ''Indian Country'' in the State, it may do so without prejudice.

EPA's future evaluation of whether to approve the Montana program for ''Indian Country,'' to include Indian reservation lands, will be governed by EPA's judgement as to whether the State has demonstrated adequate authority to

justify such approval, based upon its understanding of the relevant principles of Federal Indian law and sound administrative practice. The State may wish to consider EPA's discussion of the related issue of tribal jurisdiction found in the preamble to the Indian Water Quality Standards Regulation (see 56 FR 64876, December 12, 1991).

Montana also has primary enforcement responsibility, although EPA retains the right to conduct inspections under section 9005 of RCRA 42 U.S.C. 6991d and to take enforcement actions under section 9006 of RCRA 42 U.S.C. 6991e.

Compliance with Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. The approval effectively suspends the applicability of certain Federal regulations in favor of Montana's program, thereby eliminating duplicative requirements for owners and operators of underground storage tanks in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous materials, State program approval, Underground storage tanks.

Authority: This notice is issued under the authority of sections 2002(a), 7004(b), and 9004 of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6974(b), and 6991(c).

Dated: December 14, 1995.

Jack McGraw,

Acting Regional Administrator.

[FR Doc. 96–2142 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15 and 90

[ET Docket 93–235; FCC 95–486]

Additional Frequencies for Cordless Telephones

AGENCY: Federal Communications Commission.

ACTION: Final Rule; petition for reconsideration.

SUMMARY: By this action, the Commission denies the Petition for Reconsideration filed by the American Petroleum Institute (API). The cordless telephone rules are intended to improve the operation and convenience of cordless telephones. The Commission finds that API presents no new information in its petition that would justify a further change in our requirements for cordless telephones.

FOR FURTHER INFORMATION CONTACT: Anthony Serafini, Office of Engineering and Technology, (202) 418–2456.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* in ET Docket 93–235, Adopted December 1, 1995 and released December 12, 1995. The complete *Memorandum Opinion and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

1. On June 5, 1995, the American Petroleum Institute (API) filed a Petition for Reconsideration requesting that the Commission amend its cordless telephone rules adopted in the *Report and Order*, 60 FR 21984 (May 4, 1995), on April 5, 1995. API stated that the rules do not fully protect against interference to PLMRS and requested changes to the requirements for automatic channel selection in cordless telephones. Alternately, API requested that cordless telephones operating on the new frequencies be required to place a 2-inch by 3-inch label on both the exterior packaging and the actual equipment. The label, which would include specific language proposed by API, would warn consumers of possible interference from the PLMRS and inform them that they must accept interference.

2. In the *Report and Order*, the Commission found that it was neither necessary nor desirable to impose specific design standards for the automatic channel selection mechanism, and the Commission permitted manufacturers the flexibility to implement the requirement in a manner that best suits the design of their equipment. API has presented no new information in this regard, and we continue to believe that the concerns of API have been addressed. Commenters opposed API's petition stating that the concerns raised by API have already been adequately addressed by the Commission and that any further action is unnecessary. Regarding API's alternative request for additional labelling, we note that our existing Part 15 rules already require cordless telephones to be labelled regarding potential interference.

3. Based on the comments, the Commission adopted the *Memorandum Opinion and Order* denying API's petition for reconsideration. Accordingly, IT IS ORDERED that the petition for reconsideration filed by the American Petroleum Institute IS DENIED. This action is taken pursuant to the authority contained in Sections 4(i), 302, 303(e), 303(f), and 303(r) of the Communications Act of 1934, as amended.

List of Subjects

47 CFR Part 15

Communications equipment.

47 CFR Part 90

Communications equipment.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2168 Filed 1–31–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Parts 228 and 252

Defense Federal Acquisition Regulation Supplement; Alternatives to Miller Act Bonds

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comment.

SUMMARY: The Director of Defense Procurement is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to revise the interim rule which was published in the Federal Register on August 31, 1995, providing alternative payment protections for construction contracts between $25,000 and $100,000.

DATES: *Effective Date:* Februar 1, 1996.

Comments Date: April 1, 1996.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350. Please cite DFARS Case 95–D305 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This interim DFARS rule revises the interim rule which was published in the Federal Register on August 31, 1995 (60 FR 45376). It provides alternative payment protections for construction contracts between $25,000 and $100,000, pending implementation of Section 4104(b)(2) of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355) in the FAR. This rule has been revised to require that the contracting officer select two or more alternative payment protections, and encourages the contracting officer to include irrevocable letters of credit as one of the selected alternatives. In addition, this rule excludes payment bonds from the provisions authorizing the contracting officer to access funds under the payment protection.

B. Regulatory Flexibility Act

This interim rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*., because the rule provides alternatives to payment bonds as payment protection for construction contracts between $25,000 and $100,000. The objective of the rule is to make it easier for small businesses to provide payment protections under construction contracts. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and may be obtained from the address specified herein. A copy of the IRFA has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 95–D305 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act applies. The applicable OMB Control Number is 9000–0045.

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this rule as an interim rule. Urgent and compelling reasons exist to promulgate this rule without prior opportunity for further public comment because it is necessary to revise the payment protections for construction contracts between $25,000 and $100,000, based on comments received on the interim rule published in the Federal Register on August 31, 1995 (60 FR 45376). The wording of the initial interim rule regarding contracting officer access to funds under payment bonds erroneously resulted in a ''forfeiture type'' payment bond rather than a traditional type payment bond consistent with the terms and conditions of the Miller Act. However, comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 228 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 228 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 228 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 228—BONDS AND INSURANCE

2. Section 228.171–1 is revised to read as follows:

228.171–1 General.

(a) For construction contracts greater than $25,000, but not greater than $100,000, the contracting officer shall select two or more of the following payment protections, giving particular consideration to inclusion of an irrevocable letter of credit as one of the selected alternatives:

(1) A payment bond.

(2) An irrevocable letter of credit.

(3) A tripartite escrow agreement. The prime contractor establishes an escrow account in a Federally insured financial institution and enters into a tripartite escrow agreement with the financial institution, as escrow agent, and all of the suppliers of labor and material. The escrow agreement shall establish the terms of payment under the contract and of resolution of disputes among the parties. The Government makes payments to the contractor's escrow account, and the escrow agent distributes the payments in accordance with the agreement, or triggers the disputes resolution procedures if required.

(4) Certificates of deposit. The contractor deposits certificates of deposit from a federally insured financial institution with the contracting officer, in an acceptable form, executable by the contracting officer.

(5) A deposit of the types of security listed in FAR 28.204.

(b) The contractor shall submit to the Government one of the payment protections selected by the contracting officer.

3. Section 228.171–2 is amended by revising paragraph (a) to read as follows:

228.171–2 Amount required.

(a) The requirements at FAR 28.102–2(b), for the amount of payment bonds, also apply to the alternative payment protections described in 228.171–1.

* * * * *

4. Section 228.171–3 is revised to read as follows:

228.171–3 Contract clause.

Use the clause at 252.228–7007, Alternative Payment Protections, in solicitation and contracts for construction, when the estimated or actual value exceeds $25,000 but does not exceed $100,000. Complete the clause by specifying the payment protections selected (see 228.171–1(a)), the penal amount required, and the deadline for submission.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.228–7007 is amended by revising the clause date and by revising paragraphs (d) and (e) to read as follows:

252.228–7007 Alternative Payment Protections.

As prescribed in 228.171–3, use the following clause:

ALTERNATIVE PAYMENT PROTECTIONS (FEB 1996)

* * * * *

(d) The payment protection shall provide protection for the full contract performance period plus a one-year period.

(e) Except for escrow agreements and payment bonds, which provide their own protection procedures, the Contracting Officer is authorized to access funds under the payment protection when it has been alleged in writing by a supplier of labor or material that a nonpayment has occurred, and to withhold funds pending resolution by administrative or judicial proceedings or mutual agreement of the parties.

* * * * *

[FR Doc. 96–2009 Filed 1–31–96; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 620

[Docket No. 9601–26016–6016–01; I.D. 012696C]

RIN 0648–XX41

General Provisions for Domestic Fisheries; Closes Block Island Sound to All Fishing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule.

SUMMARY: NMFS has determined that, in order to protect public health , safety, and welfare, it is necessary to close a portion of Federal waters in Block Island Sound off the coast of the State of Rhode Island, to all fishing. Closure of this area is made at the request of the State of Rhode Island. The closure will be in effect for a period of 90 days beginning on the effective date of this rule, unless conditions allow NMFS to terminate it sooner. This closure is implemented due to the adverse environmental conditions created by the recent grounding of an oil barge, and subsequent oil spill. This action will prevent fishermen from harvesting fish which may be contaminated.

EFFECTIVE DATE: January 26, 1996 through May 1, 1996.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone at (508) 281–9221.

SUPPLEMENTARY INFORMATION: This emergency action is taken in response to the January 19, 1996, grounding of an oil barge, and subsequent spill of more than 700,000 gallons (2.6 million L.) of fuel oil into the waters of Block Island Sound. The closed area is defined as Federal waters of Block Island Sound bounded as follows: From the point where LORAN line 25740 intersects with the 3 nautical mile line south of Easton Point, RI, proceeding southwesterly along the 25740 line to its intersection with the 43870 line, thence southwesterly along the 43870 line to the intersection of the 3 nautical mile line east of Block Island, RI, thence northwesterly along said 3 nautical mile line to the intersection of the 14540 line, thence northwesterly along the 14540 line to the intersection of the 3 nautical mile line, thence northeasterly along the 3 nautical mile line to the starting point. Vessels fishing outside of this area may pass through the closed area, provided that all fishing gear is stowed and unavailable for immediate use in accordance with 50 CFR sections 625.24(f), 650.21(a)(2)(iii), and 651.20(c)(4)(i).

The complete extent of the ecological damage due to the spill is not known at this time. Oil exposure has been shown to be lethal to marine life, and can accumulate and linger in the food chain. The purpose of this action is to prevent vessels from harvesting contaminated fish from the area of the spill in the interest of public health. The emergency nature of the adverse environmental condition created by the presence of oil in the area renders prior notice and opportunity to comment on a proposed closure contrary to the public interest. Consequently, the emergency action authority vested in the Secretary of Commerce under section 305(c) of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1855(c) is invoked to make the closure effective immediately.

The closure prohibits all fishing in the area beginning on January 26, 1996, through April 29, 1996, unless circumstances exist that permit earlier reopening of the area. The are may reopen earlier if NMFS, in association with other State and Federal agencies, determines that the environmental degradation of the marine environment represented by the presence of the oil, and the consequential negative impact on fishing operations, and risk to public health, safety, and welfare has ended.

This action has the support of the State of Rhode Island, the U.S. Food and Drug Administration, and U.S. Coast Guard. The New England Fishery Management Council was informed of the planned action and made no comment.

Classification

The Secretary finds for good cause that the reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for comment or to delay for 30 days the effective date of these emergency regulations under the provisions of sections 553 (b) and (d) of the Administrative Procedures Act.

List of Subjects in 50 CFR Part 620

Fisheries, Fishing.

Dated: January 26, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 620 is amended as follows:

PART 620—GENERAL PROVISIONS FOR DOMESTIC FISHERIES

1. The authority citation for part 620 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 620.7, paragraph (i) is added to read as follows:

§ 620.7 General prohibitions.

* * * * *

(i) Fish in Federal waters of Block Island Sound bounded as follows: From the point where LORAN line 25740 intersects with the 3 nautical mile line south of Easton Point, Rhode Island, proceeding southwesterly along the 25740 line to its intersection with the 43870 line, thence, southwesterly along the 43870 line to the intersection of the 3 nautical mile line east of Block Island, Rhode Island, thence northwesterly along said 3 nautical mile line to the intersection of the 14540 line, thence northwesterly along the 14540 line to the intersection of the 3 nautical mile line, thence northeasterly along the 3 nautical mile line to the starting point. Vessels fishing outside of this area may pass through the closed area, provided that all fishing gear is stowed and unavailable for immediate use in accordance with the regulations cited in 50 CFR 625.24(f), 650.21(a)(1)(iii), and 651.20(c)(4)(i).

[FR Doc. 96–2043 Filed 1–29–96; 11:54 am]

BILLING CODE 3510–22–M

50 CFR Part 672

[Docket No. 951120272–5272–02; I.D. 012696D]

Groundfish of the Gulf of Alaska; Pollock in Statistical Area 63 of the Central Regulatory Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of a closure.

SUMMARY: NMFS is terminating the closure to directed fishing for pollock in Statistical Area 63 in the Gulf of Alaska (GOA). This action is necessary to fully utilize the interim total allowable catch (TAC) of pollock in that area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), January 29, 1996, until superseded by the final 1996 specifications.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS

according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The interim specification of pollock TAC in Statistical Area 63 was established by the Interim 1996 Harvest Specifications (60 FR 61492, November 30, 1996) as 3,250 metric tons (mt), determined in accordance with § 672.20(c)(1)(ii)(A). The directed fishery for pollock in Statistical Area 63 of the GOA was closed under § 672.20(c)(2)(ii) on January 23, 1996 (61 FR 2457, January 26, 1996).

The Director, Alaska Region, NMFS, has determined that the remaining interim specification of pollock TAC in Statistical Area 63 has not been reached. Therefore, NMFS is terminating the previous closure to directed fishing for pollock in Statistical Area 63 of the GOA. All other closures remain in full force and effect.

Classification

This action is taken under 50 CFR 672.20, and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 29, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–2118 Filed 1–29–96; 2:10 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 22
Thursday, February 1, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV95–920–4PR]

Kiwifruit Grown in California; Proposed Relaxation of Container Marking Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would relax the container marking requirements for kiwifruit packed under the Federal marketing order for kiwifruit grown in California. This relaxation would reduce the number of kiwifruit containers required to be marked with the lot stamp number. This rule would reduce handling costs and provide more flexibility in kiwifruit packing operations.

DATES: Comments must be received by March 4, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be submitted in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, or by facsimile at (202) 720–5698. Comments should reference this docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone (209) 487–5901, Fax # (209) 487–5906; or Charles Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2526–S, Washington, DC 20090–6456, telephone (202) 720–5127, Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 920 (7 CFR Part 920), as amended, regulating the handling of kiwifruit grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 65 handlers of California kiwifruit subject to regulation under the order and approximately 500 kiwifruit producers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5,000,000, and small agricultural producers have been defined as those having annual receipts of less than $500,000. A majority of handlers and producers of California kiwifruit may be classified as small entities.

Under the terms of the marketing order, fresh market shipments of California kiwifruit are required to be inspected and are subject to grade, size, maturity, pack and container requirements. Current requirements include specifications that all containers of kiwifruit shall be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector, except for individual consumer packages and containers that are being directly loaded into a vehicle for export shipment under the supervision of the Federal or Federal-State Inspection Service.

The Kiwifruit Administrative Committee (committee), the agency responsible for local administration of the marketing order, met on November 30, 1995, and recommended, by unanimous vote, to relax the container marking requirements by reducing the number of containers plainly marked with the lot stamp number from all containers to all exposed or outside containers of kiwifruit, but not less than 75 percent of the total containers on a pallet.

The marketing order authorizes under § 920.52(a)(3) the establishment of container marking requirements. Section 920.303(d) of the rules and regulations outlines the lot stamp number container marking requirements for fresh kiwifruit packed under the order.

The committee recommended relaxing the lot stamp number marking requirement because of changes in the produce retail industry. The committee anticipates that the current order language, which requires all containers

to be plainly marked with the lot stamp number, would create a problem in the near future due to industry changes in container packaging configurations and pallet sizes. This relaxation would allow the industry flexibility for future pallet size and container configurations.

Many products, outside the produce industry, are received by retailers on 48- by 40-inch pallets. The kiwifruit industry almost exclusively used the ''LA Lug'' container which fits on the 35- × 42-inch or 53- by 42-inch pallets until recent years. The ''LA Lug'' configuration does not create a center tier when stacked on these pallets. When kiwifruit shippers use 35- by 42-inch or 53- by 42-inch pallets, receivers must unload the pallets and restack the fruit on metric pallets, causing more damage to the fruit and more labor costs to the receiver. Because of retail buying patterns and the retail demand for operational consistency in pallet usage, the produce industry has been moving away from using the 35- by 42-inch or 53 × 42 inch pallets and has been moving towards using a standard grocery-industry metric pallet measuring 48- by 40-inches. The committee anticipates that the retail usage of the metric pallet will continue to increase because: (1) Retailer and handler trucking and transportation costs for produce stacked on metric pallets are less than for produce stacked on 35- by 42-inch and 53- by 42-inch pallets, (2) retailer labor and disposal costs are less when metric pallets are utilized, and (3) receiving areas are steadily being remodeled to handle metric pallets. In the 1995/1996 season, approximately one percent of the industry's 9.3 million trays equivalents were packed in ''shoe'' box containers. The ''shoe'' box container (12 × 20 inches) is one of two new containers which is stacked in eight columns on a 48- by 40-inches metric pallet, and is configured in a manner which leaves one side of each container exposed. The other container that fits on the metric pallet is the ''mum'' box container. The ''mum'' box container (13.3 × 16 inches) is stacked nine columns on a pallet with the center column inaccessible to lot stamp numbering after the containers are placed on the pallet during block inspection. In block inspection, the inspection occurs after the pallets have been packed, strapped, and been placed in storage. In-line inspection is performed during the packing process, prior to palletization and storage.

The industry's usage of block and in-line inspection methods is fairly evenly split with approximately 50 percent of the handlers using in-line inspection and 50 percent using block inspection. The majority of block inspections are conducted in the northern part of California while in-line inspections are conducted primarily in the southern part of California.

The committee's recommendation to relax the container marking requirement would not significantly lower the number of containers being inspected or bearing the lot stamp number. Of the 81 containers stacked on a metric pallet during block inspection, nine containers (the center tier—approximately 11 percent of the pallet) would not be lot stamp numbered. The center tiers of all pallets would be randomly inspected by the Federal or Federal-State Inspection Service for all marketing order requirements. When the industry utilizes in-line inspection, both the ''shoe'' and ''mum'' containers are accessible to lot stamp number marking and inspection, as they are being stacked on the pallet.

There is unanimous support in the industry to reduce the lot stamp number container marking requirement.

Several other alternatives were suggested during the public meeting. One alternative discussed by the committee was to require all containers to continue to be lot stamp numbered. Maintaining the requirement for lot stamp numbers to be placed on all containers would increase handler labor costs, slow handler operations, increase handler restrapping costs, as well as increase inspection costs. It was the consensus of the committee that such a requirement would be cost prohibitive as each block-inspected pallet would have to be manually pulled apart to enable the lot stamp number to be placed on the nine-column center tier containers.

Another alternative suggested was to eliminate the block-inspection method and require all handlers to use the in-line inspection method. During in-line inspection, containers would be stamped with the lot stamp number prior to being stacked on the pallet. This would have a serious financial impact on the industry, especially among small growers and handlers, due to a large increase in inspection costs. This suggestion was unacceptable to the industry as it would be cost prohibitive and could force small growers and handlers out of business.

Another alternative examined was to establish regulations prohibiting the use of any containers that would create an inaccessible center when stacked on pallets. This alternative was not acceptable as it would not allow the industry to make necessary container changes to meet changing retailer needs and would be an excessive restriction.

This proposed rule, which would relax the lot stamp number requirement, would impact all handlers in the same manner and was viewed by the committee as the least restrictive and best solution. Relaxing the lot stamp number requirement would solve the problems caused by changes in pallet sizes and container configurations as well as spare the industry future financial hardship. It would allow the industry flexibility for future pallet size and container configurations.

Based on the above, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 920 be amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 920.303, paragraph (d) is revised to read as follows:

§ 920.303 Container marking regulations.

* * * * *

(d) All exposed or outside containers of kiwifruit, but not less than 75 percent of the total containers on a pallet, shall be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector; except for individual consumer packages and containers that are being directly loaded into a vehicle for export shipment under the supervision of the Federal or Federal-State Inspection Service.

* * * * *

Dated: January 24, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–2064 Filed 1–31–96; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 999

[Docket No. FV94–999–2PR]

Specialty Crops; Import Regulations; Peanut Import Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish minimum quality, identification, certification and safeguard requirements for imported farmers stock, shelled, and cleaned-inshell peanuts. The rule is issued under section 108B(f)(2) of the Agricultural Act of 1949, as amended. The provisions of paragraph (f)(2) require all peanuts in the domestic market to fully comply with all quality standards under Peanut Marketing Agreement No. 146 (Agreement). Thus, this rule would establish the same quality requirements and handling procedures for imported peanuts as those in effect for domestically produced peanuts. This action would benefit peanut handlers, importers and consumers by helping to ensure that all peanuts in the marketplace comply with the same quality standards.

DATES: Comments must be received by March 4, 1996. Pursuant to the Paperwork Reduction Act, comments to the information collection burden must be received by April 1, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; fax 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Tom Tichenor or Rick Lower, Marketing Specialists, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; tel: (202) 720–6862 or (202) 720–2020; fax (202) 720–5698.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under paragraph (f)(2) of section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3), as amended November 28, 1990; Pub. L. 101–624, hereinafter referred to as the Act. Paragraph (f)(2) of section 108B of the Act provides that the Secretary of Agriculture (Secretary) shall require that all peanuts in the domestic market fully comply with all quality standards under Marketing Agreement No. 146 (7 CFR part 998), issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This proposed rule would add a new § 999.600 governing the importation of peanuts'' under 7 CFR part 999—Specialty Crops; Import Regulations. Proposed § 999.600 establishes minimum quality, identification, certification and safeguard requirements for foreign produced farmers stock, shelled and cleaned-inshell peanuts presented for importation into the United States. The quality requirements are the same as those specified in § 998.100 Incoming quality regulation and § 998.200 Outgoing quality regulation established pursuant to the Agreement. Whenever the regulations specified in the Agreement are changed, the regulations in § 999.600 would be changed accordingly. Safeguard procedures enable the Department to monitor and assure importers' compliance with the requirements of this regulation.

The intent of paragraph (f)(2) of section 108B of the Act is to ensure that all peanuts in the domestic marketplace comply with the same quality standards.

The U.S. Department of Agriculture (Department or USDA) is issuing this rule in accordance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform, and is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Small agricultural service firms, which include importers, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5 million. This proposed import regulation is based on regulations established under the Agreement, which regulates the quality of domestically produced peanuts. The majority of entities that are signers of the Agreement cannot be classified as small businesses, and it is anticipated that peanut importers affected by this regulation will be comprised primarily of signatories to the Agreement. Although small business entities may incur additional costs in meeting these proposed import regulations, the benefits accrued from the assurance of good quality peanuts should outweigh any additional costs to such entities. Inspection and testing fees would be uniformly applied to importers, regardless of size. Finally, this action is required by statute.

The Department is unable to estimate, at this time, the number or size of importers, or domestic peanut handlers acting as importers, who may choose to import peanuts under the relaxed quota. The Department estimates that there are as many as 50 domestic peanut handlers with storage and milling facilities that can be used to prepare peanuts for human consumption markets.

In the past, the importation of peanuts has been limited to 1.71 million pounds annually. However, the Schedule of the United States annexed to the North American Free Trade Agreement (NAFTA), implemented on January 1, 1994, provided duty free entry for up to approximately 7.43 million pounds of qualifying peanuts from Mexico. For 1995, the duty-free access increased to approximately 7.65 million pounds. By calendar year 2008, access will be unlimited. In addition, the United States Schedule to the Uruguay Round Agreements negotiated under the General Agreement on Tariffs and Trade (GATT) relaxes the peanut import quota to 74.5 million pounds in 1995, with additional annual increases to 124 million pounds by the year 2000.

Various qualities of peanuts are entered into the United States from countries such as Argentina, Mexico, Nicaragua, India, and the People's Republic of China. However, until the People's Republic of China accedes to the World Trade Organization, no benefits of the increased access will be available to it. Foreign produced peanuts are produced under varying weather conditions and using different cultural practices. Consistent with the Agreement's regulatory provisions, each lot of peanuts entered into the U.S. would be required to be officially sampled and graded by the Federal or Federal-State Inspection Service (inspection service). Incoming inspection for farmers stock peanuts and outgoing inspection for edible quality shelled peanuts and cleaned-inshell peanuts would be required for imported peanuts. A list of inspection service

offices is provided in paragraph (d)(2)(i) of this regulation.

Some peanuts contain defects or other damage which cause them to be of low quality or have poor taste which could affect the demand for peanuts. Producers, handlers and manufacturers in the domestic peanut industry believe that even an isolated quality problem could adversely affect consumer confidence, which would be detrimental to the domestic peanut industry.

The Agreement imposes quality standards for domestically produced inshell and shelled peanuts. Peanut lots are graded based on the percentage of unshelled peanuts, percentage of kernels with damage and minor defects, percentage of loose shelled kernels, percentage of foreign material, and percentage of moisture content. In addition, an integral part of these quality standards is the extent of the presence of *Aspergillus flavus* mold (the principal cause of aflatoxin, which is a carcinogen). This mold is more likely to be found on damaged or defective kernels than on sound, whole, good quality kernels. A chemical analysis for aflatoxin is required on shelled peanut lots not meeting superior quality requirements. Shelled lots that exceed certain superior quality requirements are exempt from the aflatoxin chemical analysis requirements.

U.S. Customs Service requirements and USDA safeguard procedures: Importer obligations would include filing documents notifying the U.S. Customs Service (Customs Service) and the USDA of different actions taken concerning foreign produced inshell and shelled peanuts. Customs Service importation procedures and requirements are set out in title 19 of the Code of Federal Regulations (19 CFR). The Customs Service regulations applicable to peanut handling and processing include, but are not be limited to: bond requirements (19 CFR part 113); transfer from port of entry to another Customs Service office location (19 CFR part 112); entry of merchandise for consumption (19 CFR part 141); warehouse entry, and withdrawal from warehouse for consumption (19 CFR part 144); establishment of bonded warehouses (19 CFR parts 19.13 and 19.2); and manipulation in bonded warehouses (19 CFR part 19.11); transfer of ownership (19 CFR parts 141.113 and 141.20); failure to recondition (19 CFR part 113.62(e); and redelivery of merchandise 19 CFR part 113.62(d). For Customs Service purposes, the term ''consumption'' means ''use in the United States.'' Customs Service entry procedures would not be superseded by this import regulation.

When arriving at a port of entry, foreign produced peanuts may be entered for ''warehouse'' or entered for ''consumption,'' or may be transported to another Customs Service port of entry to be entered there for warehouse or consumption. Peanuts transported from one Customs Service port of entry to another Customs Service port of entry must be transported by a carrier designated by the Customs Service under 19 U.S.C. 1551. Peanuts entered for warehouse are stored in a Customs Service bonded warehouse. Such peanuts remain in Customs Service custody until they are withdrawn from warehouse, entered for consumption, or released from Customs Service custody. Peanuts entered for consumption, and peanuts withdrawn from warehouse for consumption, are released from Customs Service custody for edible or non-edible use. Release of peanuts, in both cases, would be a conditional release, pending certification that the peanuts conform to Customs Service entry requirements and meet the handling and quality requirements of this proposed regulation. The Customs Service can demand redelivery of peanuts that are subsequently determined to be inadmissible.

The importer, or import broker acting on behalf of the importer, would be required to file with the Customs Service required entry documentation for each foreign produced peanut lot to be entered. Under USDA safeguard procedures established in this proposed rule, each importer would also be required to file completed entry documentation (Customs Service Form 3461 or other equivalent form) with the inspection service office that would perform the sampling of the lot for inspection to provide that office with advanced notice of requested inspection. The entry documentation would be filed by mail or facsimile transmission (fax). The filing would occur prior to arrival of the shipment at the port of entry in order to expedite entry procedures. The inspection service office would stamp, sign, and date the entry document and return it to the importer or broker by fax or mail. The importer/broker would then submit the stamped copy to the Customs Service. This ''stamp-and-fax'' procedure is similar to a procedure in place for other imported agricultural commodities under AMS jurisdiction. Failure to file with the Customs Service a copy of the entry documentation stamped by the inspection service would result in a delay or denial of entry. The importer/broker would also send a completed copy of the document to the AMS to initiate USDA's monitoring process.

The names, addresses and contact numbers of inspection service offices that perform peanut sampling and/or grade inspections are provided in paragraph (d)(3) of this proposed rule. Inspection service offices at other locations may be contacted to sample the imported peanut lot. In such cases, the collected peanut samples would be shipped to an inspection service office with equipment and personnel qualified to a perform grade inspection. Samples of lots meeting minimum grade requirements would also be sent to an approved laboratory (listed in paragraph (d)(4) of this rule) for aflatoxin analysis. The lot would have to remain in storage pending grade and aflatoxin certification.

It would then be the importer's responsibility to provide, in the mailed or faxed documentation, sufficient information to identify the peanut lot being entered and to ensure that arrangements are made for sampling and inspection. The information would include the container identification, weight of the peanut lot, the city, street address, and building number (if known) receiving the peanut lot, the requested date and time of inspection, and a contact name or number at the destination. If the destination is changed from that listed on the stamp-and-fax document, it would be the importer's responsibility to immediately advise inspection service offices at both the original destination and the new destination of such change. Shipments which are not made available pursuant to the entry document, or are not properly displayed for sampling purposes, would be reported to the Customs Service.

Falsification of reports submitted to the AMS is a violation of Federal law punishable by fine or imprisonment, or both.

A bond secured by surety or U.S. Treasury obligations is required to be posted by the importer with the Customs Service to guarantee the importer's performance. Peanuts would be determined inadmissible because the importer failed to follow Customs Service importation procedures, the peanuts failed to meet quality requirements, or because the handling procedures (including lot identification and certification) specified in these proposed regulations were not followed.

Redelivery could be demanded for failure to comply with the quality, handling, and reporting requirements of this import regulation, including: arrival at the inland destination with a broken Customs Service or inspection service

seal; failure to maintain lot identity; failure to receive required inspection; commingling of peanut lots not of like quality or condition; disposition of non-edible peanuts to an edible peanut outlet or an improper, non-edible peanut outlet; and failure to fully report the disposition of foreign produced peanuts. Disposition reports would include grade, aflatoxin, and identification certifications and bills of lading, sales receipts, and other documentation showing the peanuts were disposed to a non-edible peanut outlet, exported, or destroyed.

A redelivery demand must be made by the Customs Service within 30 days of release of the peanuts. Redelivery to the port of entry is normally required within 30 days after the redelivery demand is issued. The Customs Service may authorize a longer redelivery period and may authorize an appropriate extension of the redelivery period for good cause.

Because the Customs Service requires one week to prepare and issue a redelivery demand notice, this proposed import rule would establish that importers must report disposition of lots of peanuts to the AMS within 23 calendar days of the date of release. Although a 23-day deadline may be considered burdensome by some, this deadline is necessary because of the Customs Service 30-day requirement. Thus, the importer would have 23 days to perform necessary shelling, cleaning, sorting, sizing or other handling functions necessary to obtain edible certification or to dispose of the peanuts to a non-edible peanut outlet. If the AMS did not receive certification of the lot's edible quality or non-edible disposition by the 23rd calendar day, or if the importer fails to comply with quality or handling requirements of this import regulation, the AMS would notify the Customs Service. The Customs Service would then demand redelivery of the lot. Peanuts entered for warehouse (and which remain in Customs Service custody in a bonded warehouse) would not be subject to these time constraints until they are withdrawn for consumption. If notified by the importer, AMS would extend a deadline to correspond with an extension granted to the importer by the Customs Service.

The importer would cause a copy of the entry documentation applicable to each peanut lot to be forwarded with the peanuts to the lot's inland destination. If the shipment is sealed by Customs Service or the inspection service, the seal must remain intact and would be broken only by an authorized official at the destination point.

The identification requirements in this proposed regulation are similar to the Agreement's lot identification requirements. Lot size would be limited to 200,000 pounds to comply with Agreement requirements and random sampling provisions of the inspection service. Boatload shipments exceeding 200,000 pounds would be entered under two or more Customs Service entry documents. For instance, five containers averaging 40,000 pounds each (the industry standard) would be entered on one entry document. Lot size and identification arrangements would be made consistent with the port of entry inspection service office and would be established cooperatively between the inspection service, Customs Service offices and the importer at the port of entry. This would facilitate subsequent lot identification, inspection, and reporting of large imported shipments.

Foreign produced peanuts placed in storage could be commingled only with like-quality, foreign produced peanuts belonging to the same importer. Similarly, failing quality peanuts could be commingled with other such foreign produced peanuts prior to clean up or non-edible disposition. However, reports concerning commingled lots would have to be reported within the 23-day reporting period of the earliest-entered lot commingled. For example, if two 100,000 pound shipments were released for consumption entries on consecutive Mondays, and commingled in storage prior to outgoing inspection, at least 100,000 pounds from the commingled lot would have to be withdrawn from storage, inspected and reported as meeting edible or non-edible disposition requirements of this proposed rule within 23 days of the first lot's consumption entry date. Further, the remaining commingled peanuts would have to be withdrawn, inspected, properly disposed and reported within the next week—before the end of the second lot's 23 day reporting period.

The objective of the lot identification requirements is to help ensure that individual peanut lots would be disposed as required and that defects in poor quality peanut lots would not be blended out by commingling poor quality peanuts with higher quality peanuts. The lot identification requirements in this proposed import regulation are the same as those specified for domestically produced peanuts.

All USDA required sampling, quality certification, and lot identification would be conducted by the inspection service. Chemical analysis would be conducted by USDA or approved laboratories. Foreign produced peanuts stored in bonded warehouses are subject to Customs Service audits. Importers would reimburse the inspection service, laboratories, and the Customs Service for services provided and costs incurred with regard to the importation of the importer's peanuts.

Release for importation:

Depending on condition (shelled or inshell) and containerization, foreign produced peanuts could be either: (1) Sampled, inspected, and held at the port of entry until certified by the inspection service as meeting the edible quality requirements of this rule; or (2) conditionally released at the port of entry and entered under Customs Service entry procedures for later inspection and certification.

Under option (1), foreign produced shelled or cleaned-inshell peanuts which are cleaned, sorted, sized, and otherwise prepared for edible consumption prior to entry, could be sampled and inspected at the port of entry. The importer would present such peanuts in containers or bags that would allow appropriate sampling of the lot pursuant to inspection service requirements. After sampling, such lots would be held at the port of entry, under lot identification requirements of the inspection service, pending results of the inspection and chemical analysis. If determined to meet the applicable edible quality requirements in paragraph (c) of this proposed rule, the shelled or cleaned-inshell peanuts could be entered for consumption without further inspection. Reports of such entries would not have to be filed with AMS.

Shelled or cleaned-inshell peanuts, sampled and held at the port of entry, which fail edible quality requirements would, at the importer's discretion, be: (1) exported; (2) entered for clean up, and if satisfactorily remilled or blanched, used for edible consumption; or (3) entered for non-edible consumption. Failing peanuts that are exported would not have be reported to AMS because the peanuts were not entered into the U.S. The importer would fully report all actions taken on each lot entered for clean up or non-edible disposition within 23 days of the lot's consumption entry filing date.

Under option (2), foreign produced shelled or cleaned-inshell peanuts which are cleaned, sorted, sized, and otherwise prepared for edible consumption prior to entry, would be conditionally released at the port of entry and transported inland for sampling, inspection, and certification. Farmers stock peanuts would have to be shipped inland for sampling and inspection because specialized sampling

facilities are not available at ports of entry.

Categories of peanuts submitted for importation:

Farmers stock peanuts. Such peanuts would be required to undergo incoming inspection at a prearranged buying point prior to arrival at a shelling or storage destination. All required inspections, shelling, and dispositions of released farmers stock peanuts would be completed and reported within the required 23 day reporting deadline.

Foreign produced farmers stock peanut lots could not be commingled with other peanut lots prior to incoming inspection. Incoming inspection determines the quality of the farmers stock peanuts based on moisture content, foreign material, damage, loose shelled kernels, and visible Aspergillus flavus mold. The inspection service would issue USDA form CFSA–1007, ''Inspection Certificate and Sales Memorandum'' (formerly ASCS–1007) designating the lot as either Segregation 1, 2, or 3 quality.

Only Segregation 1 peanut lots could be prepared for human consumption use. Such peanuts would be shelled or prepared for cleaned-inshell use, and certified for disposition within 23 days of the lot's release. If Segregation 1 lots imported on successive days were commingled, each imported lot would still have to comply with the 23-day reporting period. For quality control and reporting purposes, Segregation 1 lots intended for human consumption outlet could be commingled only with other like quality peanuts of the same importer. A Segregation 1 lot commingled with Segregation 2 or 3 peanuts would assume the lower Segregation 2 or 3 quality and would be disposed as non-edible quality peanuts.

Foreign produced farmer stock peanuts received by importers and determined at incoming inspection to be Segregation 2 and 3 quality peanuts could be disposed only as non-edible peanuts. Segregation 3 and commingled Segregation 2 and 3 farmers stock peanuts could be exported inshell or shelled and fragmented prior to export. Segregation 2 and 3 peanuts could also be destroyed by burying (under inspection service supervision) or exported (certified by Customs Service). The importer would report non-edible disposition by providing a copy of the incoming inspection certificate, bills of lading and sales receipts, or other official certifications as proof of disposition to crushing or exportation, or to other non-edible outlets or burying. Exported peanuts would be lot identified by the inspection service and that certification would be filed with the Secretary within the 23 day reporting period and applicable Customs Service re-export procedures would be followed.

Foreign produced Segregation 2 and 3 quality peanuts could be shelled by a custom seed sheller for seed use and dyed or chemically treated so as to be unfit for human or animal consumption. Domestically produced Segregation 2 and 3 peanuts shelled for seed need not be dyed or treated but must be produced under the auspices of a State agency, shelled by a custom seed sheller, and subject to the Peanut Administrative Committee (PAC) oversight. Measures such as these are necessary to ensure that peanuts used for human consumption are safe and wholesome. Proof of dyeing or chemical treatment of foreign produced peanuts would be filed with the Secretary within the 23 day reporting period.

Foreign produced farmers stock peanuts do not qualify for the support program administered by the Farm Service Agency, formerly the Agricultural Stabilization and Conservation Service (ASCS).

Shelled peanuts: Foreign produced shelled peanuts could: (1) Originate from foreign produced Segregation 1 farmers stock milled at facilities in the U.S., or (2) be peanuts produced and milled in another country which are conditionally released at the port-of-entry for inland sampling and inspection. Both categories of shelled peanuts would be sampled and inspected against outgoing quality requirements specified in paragraph (c) of this regulation.

Domestically produced shelled peanuts intended for edible markets must originate from farmers stock peanuts which have undergone incoming inspection and are determined to be of Segregation 1 quality. The AMS cannot determine whether shelled peanuts produced and milled in a foreign country originated from Segregation 1 quality peanuts prior to milling. However, because outgoing inspection is more reliable and precise in determining aflatoxin content in peanut kernels, this proposed import regulation provides that peanuts shelled prior to entry would be exempt from incoming inspection before delivery for outgoing inspection. Such shelled peanuts would be sampled and tested against outgoing quality requirements prior to disposition to edible outlets.

Two grade levels for shelled peanuts are in effect under the Agreement and would be established in this import regulation. The Agreement provides that shelled peanut lots meeting the quality requirements specified in a table entitled ''Other Edible Quality,'' under paragraph (a) of § 998.200, must be chemically analyzed for aflatoxin content prior to disposition to edible outlets. The quality requirements specified in the Other Edible Quality table are duplicated in ''Table 1, Minimum Grade Requirements—Peanuts for Human Consumption'' of this proposed import regulation. The outgoing quality requirements would also include a parts-per-billion tolerance for aflatoxin, determined by chemical analysis.

Aflatoxin appears most frequently in damaged, stressed, under-developed and malformed kernels. Domestic lots with fewer poor quality kernels are less likely to be contaminated and, thus, do not have to be chemically tested. The Agreement's ''Indemnifiable Grades'' table in paragraph (a) of § 998.200, provides for a superior quality level with more rigorous percentage tolerances than those found in the Other Edible Quality table. Thus, foreign produced shelled lots meeting the superior quality standards would be exempt from chemical analysis. The quality requirements specified in the ''Indemnifiable Grades'' table are duplicated in ''Table 2 Superior Quality Requirements—Peanuts for Human Consumption'' of this proposed regulation.

Currently, in paragraph (c)(4) of § 998.200, peanuts are considered edible quality if the chemical assay shows the lot contains 15 ppb or less of aflatoxin. Thus, the level of aflatoxin in foreign produced peanut lots intended for edible peanut markets could not exceed 15 ppb. Consistent with paragraphs (c)(4) and (g)(3) of § 998.200, non-edible quality peanut lots with 25 ppb or less could be disposed to certain non-edible peanut outlets. Non-edible quality peanut lots with aflatoxin exceeding 25 ppb would be further restricted to certain other non-edible peanut outlets. The sampling, testing, certification and identification of foreign produced peanuts lots would be performed in accordance with paragraph (d)(4) of this proposed regulation.

Chemical testing would be performed by an AMS, Science and Technology Division laboratory or a laboratory approved by the PAC. The PAC locally administers the Agreement with Department oversight. A list of approved laboratories is provided in paragraph (d)(4)(iv) of this proposed regulation. These are the same laboratories specified in the Agreement.

Thus, to obtain approval for human consumption use of a foreign produced shelled peanut lot, the importer would present to the AMS and the Customs

Service two certifications: (1) Quality certification Form FV–184–9A ''Milled Peanut Inspection Certificate'' and (2) aflatoxin certification Form CSSD–3 ''Certificate of Analysis for Official Samples'' issued by USDA laboratories, or equivalent forms issued by a PAC approved lab. An aflatoxin certificate would not be required if the lot meets the superior grade requirements, but could be required by the buyer. The certificates are the same as those used to report grade and chemical analysis results for domestically produced peanuts. If the required certificates were not received by the AMS within 23 days of a consumption entry, or a withdrawal for consumption entry, the AMS would request the Customs Service to initiate a redelivery demand for the lot.

Cleaned-inshell peanuts: Inshell peanuts that have been cleaned, sorted, and prepared in another country for edible inshell peanut markets in the U.S. could be presented as a consumption entry at the port of entry. Such peanuts would be declared as cleaned-inshell peanuts on the Customs Service entry document and could either be presented for outgoing inspection at the port of entry, if delivered in bags, or conditionally entered for outgoing inspection at a facility inside the U.S. Peanuts declared as cleaned-inshell on a Customs Service entry document could not undergo additional cleaning, sorting, sizing, or drying prior to outgoing inspection at the destination point inside the U.S.

Cleaned-inshell peanut lots destined for edible peanut markets would be required to meet certain minimum quality requirements for damage, moisture and foreign material. Cleaned-inshell lots containing more than 1 percent kernels with visible mold would have to be chemically tested and meet aflatoxin requirements. The cleaned-inshell quality requirements specified in paragraph (c)(2) of this proposed regulation are the same as the quality requirements in paragraph (b) of § 998.200 of the Agreement.

Foreign produced farmers stock Segregation 1 peanuts also could be prepared and presented at outgoing inspection as cleaned-inshell peanuts. Such peanuts inspected and certified as meeting edible requirements for cleaned-inshell peanuts would be designated as imported peanuts on inspection service form FV–184–9A. The importer would file form FV–184–9A with the AMS for each lot of foreign produced cleaned-inshell peanuts meeting edible quality requirements for cleaned-inshell peanuts.

Imported peanuts certified as meeting edible requirements could be used any way desired. Only after shelled and cleaned-inshell peanuts are certified as meeting applicable requirements could such peanuts be commingled with imported lots of other importers or domestically produced peanuts also certified for human consumption.

Disposition of Failing Peanuts

The following peanuts could not be used for human consumption: (1) Farmers stock peanuts that grade either Segregation 2 or Segregation 3; (2) cleaned-inshell and shelled peanuts that fail outgoing quality and/or aflatoxin requirements and were not reconditioned or reworked (the removal of defective kernels); and (3) below grade residue from any shelling, milling or blanching operations.

Cleaned-inshell lots that fail outgoing inspection requirements of paragraph (c)(2) could be reconditioned by remilling the peanuts, which could include shelling. If shelled, the peanuts would have to meet outgoing requirements of proposed paragraph (c)(1) for shelled peanuts.

Failing shelled lots, which originated from Segregation 1 peanuts, could be reconditioned following procedures established in paragraph (f) of this proposed rule. These provisions are the same as those established under various provisions of the Agreement. Segregation 1 shelled peanuts failing quality requirements in table 1 and/or exceeding 15 ppb aflatoxin content could be reconditioned by remilling and/or blanching and, when subsequently reinspected and certified as meeting edible quality and aflatoxin requirements, could be disposed to edible peanut outlets. If not reconditioned, failing Segregation 1 lots would have to be disposed to non-edible peanut outlets as unrestricted or restricted peanuts (below).

Provisions controlling the disposition of residue peanuts from inshell remilling and shelled remilling and blanching that continue to fail edible quality requirements are also provided in this proposed rule. Two categories of non-edible peanuts are specified under the Agreement—''unrestricted'' and ''restricted.'' The designation would be based on the amount of aflatoxin detected in the lot. ''Unrestricted'' peanuts would be peanuts which fail one or more quality requirements and, when chemically assayed, contain more than 15 ppb but 25 ppb or less aflatoxin. While such peanuts would not be edible quality, they could be crushed for oil, exported or used in animal feed, provided that certain handling and container labeling requirements were followed. Unrestricted peanuts also could be used for seed (if dyed or treated to prevent edible use), crushed for oil, exported, or buried. Meal resulting from the crushing of unrestricted peanuts would not have to be tested a second time for aflatoxin content. Disposition of meal resulting from the crushing of peanuts is not regulated under the Agreement or this proposed regulation.

Peanuts containing more than 25 ppb aflatoxin would be considered ''positive'' to aflatoxin and would be designated as ''restricted'' peanuts. Restricted peanut lots may or may not meet quality requirements of table 1. At the direction of the importer, restricted peanut lots would be used either for seed (if dyed or treated), crushed for oil, destroyed by burying, or exported. Meal resulting from the crushing of restricted peanuts would be certified as to aflatoxin content and such certification would accompany the meal into the channels of commerce.

The importer could dispose of a failing peanut lot directly to a non-edible peanut outlet or set aside and commingle several failing lots for eventual disposition to one or more non-edible outlets. Commingled failing quality peanuts would be held separate and apart from edible peanuts and identified with red tags indicating non-edible peanuts. Eventual disposition would be to non-edible peanut outlets consistent with the failing quality of the peanuts, pursuant to paragraph (e) of this proposed rule.

If an importer chose to destroy by burying or export unrestricted or restricted peanuts, the peanuts would be lot identified and proof of burying or exportation would be provided by the importer to the AMS. Customs Service procedures controlling re-exported merchandise would also be followed by the importer. Burying and exportation expenses would be borne by the importer.

It would be the importer's responsibility to file inspection certificates and other documentation sufficient to account for disposition of all failing quality peanuts acquired by the importer. Such proof could consist of copies of bills of lading and sales receipts between the importer and non-edible peanut outlet receivers. The documentation would contain identifying information, such as container or lot numbers, that tie the peanuts reported on the documents to failing quality peanuts on inspection service or aflatoxin certificates. The name and address of the non-edible peanut receiver and valid contact information would also be specified on the documentation.

Disposition of unrestricted and restricted peanut lots would be reported to the AMS within 23 days of filing for a consumption entry, or a withdrawal for consumption entry, with the Customs Service.

The inspection service would identify imported peanuts as peanuts of foreign origin on the inspection certificate to assist in lot identification (and help prevent unintended commingling with domestically produced peanuts prior to certification). Foreign origin designations also would help importers and the AMS meet its monitoring responsibilities.

From time to time, the PAC may recommend to the Secretary that quality requirements or handling procedures specified in the Agreement be revised. If such changes are approved by the Secretary and implemented for the domestic peanut industry in 7 CFR Part 998, corresponding changes would be made in § 999.600. Changes in regulations for domestically produced peanuts are generally made effective July 1. Thus, corresponding changes to the import regulation would be made effective on that date, unless otherwise specified in the regulation. Quality requirements in effect on the date of inspection of a foreign produced lot would be applied to the inspected lot.

Safeguard procedures: This proposed rule would establish a procedure to verify importers' compliance with import requirements. The safeguard procedures would provide for monitoring of peanut lots from entry to final disposition. The purpose of these procedures would be to ensure that foreign produced peanuts either meet edible requirements or are appropriately disposed to non-edible peanut outlets, exported or destroyed. The proposed safeguard procedures are similar to safeguard procedures already in place for other imported commodities and are consistent with the inspection, identification and certification requirements applied to domestically produced peanuts under the Agreement.

The safeguard process would include the ''stamp-and-fax'' entry procedure, described above, whereby the importer provides the Customs Service with an entry document stamped by the inspection service. The importer also would file a copy of the entry document with the AMS and forward a copy, with the released lot, to the inland destination where the lot would be inspected or warehoused. Edible certification and non-edible disposition would be reported by filing with the AMS copies of all grade certificates, aflatoxin certificates, and proof of non-edible disposition. Such certifications would be filed within 23 days of filing a consumption entry or a withdrawal from warehouse for consumption entry.

Receipt of required certificates and other documentation within the 23-day deadline would be essential. Failure of an importer to obtain edible certification—or arrange for appropriate non-edible disposition—on all foreign produced peanut acquisitions, and file such reports with the AMS within 23 days of a consumption declaration, could result in a redelivery demand by the Customs Service. Failure to redeliver the violating lot could result in liquidated damages.

Certificates and other supplementary documentation would be sent to AMS, Marketing Order Administration Branch (MOAB) which oversees the domestic peanut program and would oversee this proposed import program. Facsimile or express mail deliveries could be used to ensure timely receipt of certificates and other required documentation. Overnight and express mail deliveries would be addressed to the USDA/AMS, Marketing Order Administration Branch, 14th and Independence Ave. SW, Room 2525, Washington, DC. 20250, Attn: Report of Imported Peanuts. The MOAB's fax number is (202) 720–5698, Attn: Report of Imported Peanuts.

For the purposes of checking and verifying reports filed by importers and disposition outlets, provisions would be included in this proposed regulation that would allow the Secretary, through duly authorized agents, to have access to any premises where peanuts may be held and processed. Authorized agents, at any time during regular business hours, would be permitted to inspect any peanuts held, and any and all records with respect to the acquisition, holding or disposition of any peanuts which may be held, or which may have been disposed by that importer.

USDA record retention requirements would also be established to require importers to retain information for at least two years beyond the year of applicability. Customs Service record retention requirements are longer.

With regard to Customs Service reporting procedures, it is the importer's decision when to commence ''consumption'' entry procedures or when to withdraw merchandise from a warehouse for consumption. The importer's decision would be implemented in a manner consistent with Customs Service procedures and reported in accordance with normal Customs Service requirements. Any Customs Service reporting or recordkeeping requirements for disposition of imported merchandise or clearance of bonding requirements would not be superseded by this regulation.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information and collection requirements that are contained in this proposed rule have been submitted to the Office of Management and Budget (OMB) and would be assigned a new OMB number. Comments should reference this proposed import regulation and the date and page number of this Federal Register. Comments must be received by April 1, 1996. Comments should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, OMB, Washington, D.C., 20503 and to the USDA in care of the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; fax 202–720–5698. A comment to OMB is best assured of having its full effect if OMB receives the comment within 30 days of publication of the rule. All comments will also become a matter of public record.

Comments are invited on: (1) Whether the proposed collection of information is necessary for USDA's oversight of imported peanuts; (2) the accuracy of the collection burden estimate and the validity of methodology and assumptions used in estimating the burden on respondents; (3) ways to enhance the quality, utility, and clarity of the information requested; and (4) ways to minimize the burden, including use of automated or electronic technologies.

The reporting and recordkeeping burdens imposed under this proposed rule are designed to be minimal on importers and customs brokers. No new forms would be required to be completed by importers or customs brokers. However, various documentation obtained during the importation process—incoming and outgoing inspection certificates, lot identification certificates, aflatoxin laboratory analyses, Custom Service documentation, bills of lading, etc. would be photocopied and mailed to the Secretary. The information collected would be used for compliance purposes only and would be held confidential by the Department. The information collected would not be compiled for dissemination in any public report.

Estimate of Burden: Public reporting burden for this proposed collection of information is estimated to average 5 minutes (0.083 hours) per response.

Respondents: Importers and customs brokers who import peanuts.

Estimated Number of Respondents: 25.

Estimated Number of Responses per Respondent: 85.

Estimated Total Annual Burden on All Respondents: 177 hours (7.08 hours per respondent).

Without the benefit of prior experience in this subject, and for the purposes of complying with the Paperwork Reduction Act requirements, the Department makes several rough estimates as to the number of importers affected by this regulation, the number of peanut shipments imported, and the number of documents needed to be filed for each shipment. As many as 50 peanut handlers are capable of conducting handling functions on imported peanuts, but evidence from 1995 indicates that only a handful imported peanuts. Thus, the number of importers is estimated at 25. While the exact amount is not yet determined, if the 1996 quota is established at 85 million pounds (and is fully subscribed), approximately 425 entries of 200,000 pound shipments would be entered. If allocated equally, the number of shipments per importer would be 17.

It is expected that most shipments would be shelled peanuts needing as few as three documents filed with the Secretary—the initial Customs Service entry document (Form 3461, or equivalent form, filed with the inspection service office and AMS), a grade inspection certificate (FV–184–9A, ''Milled Peanut Inspection Certificate'') and an aflatoxin assay certificate (Form CSSD–3 ''Certificate of Analysis for Official Samples'' or equivalent PAC approved laboratory form). Inshell lots and shelled lots that fail inspection requirements (expected to be far fewer in number) would require additional forms for reconditioning or disposition of non-edible peanuts. This rule estimates that each entry would require an average of five documents be filed for each imported shipment of peanuts—resulting in an estimated 85 documents filed for each importer, and approximately 2,125 filings for the industry. The time to photocopy and mail a document, and file the document for recordkeeping purposes, is estimated to total 5 minutes—resulting in an annual burden of approximately 7 hours per importer, and a total of 177 burden hours for the industry.

In addition to the reporting requirements, this proposed rule would establish that importers and customs brokers retain copies of certifications and entry documentation for not less than two years after the calendar year of acquisition. This is a commonly accepted records retention period and within good business practices. The time for maintaining records by filing each document internally is included in the five minute filing estimate. The information collected would be used only for compliance purposes by personnel of the USDA.

The reporting and recordkeeping requirements established in this proposed rule would enable the USDA to oversee the importation of peanuts and help the U.S. peanut industry provide only good quality, wholesome peanuts for edible peanut outlets. Without the quality requirements specified in the Agreement (7 CFR Part 998), regulations for non-signatory handlers (7 CFR Part 997), and these proposed regulations, poor quality peanuts could more easily be entered into edible channels, causing consumer dissatisfaction and having a negative impact on the market for peanuts and peanut products. Compliance with these standards would help the peanut industry in its efforts to expand markets.

Although these proposed requirements could result in small additional costs for importers, the benefits from the restriction of low quality peanuts from edible markets could outweigh any additional inspection, handling, recordkeeping and reporting costs resulting from the requirements. The proposed requirements have been carefully reviewed and every effort has been made to minimize any unnecessary reporting and recordkeeping costs.

Based on available information, the Administrator of the AMS has determined that this proposed rule could impose some additional costs on affected importers. However, the benefits of marketing a high quality product should exceed the additional costs, if any, which could be incurred in meeting these requirements.

A 30 day comment period is provided to allow interested persons to respond to this proposal. All written comments received within the comment period will be considered when finalizing this proposed rule.

List of Subjects in 7 CFR Part 999

Dates, Filberts, Food grades and standards, Imports, Nuts, Peanuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 999 is proposed to be amended as follows:

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 999 is revised to read as follows:

Authority: 7 U.S.C. 601–674; and 7 U.S.C. 1445c-3.

2. A new § 999.600 is added to part 999 to read as follows:

§ 999.600 Regulation governing imports of peanuts.

(a) *Definitions.* (1) *Peanuts* means the seeds of the legume *Arachis hypogaea* and includes both inshell and shelled peanuts produced in countries other than the United States, other than those marketed in green form for consumption as boiled peanuts.

(2) *Farmers stock peanuts* means picked and threshed raw peanuts which have not been shelled, crushed, cleaned or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the form in which customarily marketed by producers.

(3) *Inshell peanuts* means peanuts, the kernels or edible portions of which are contained in the shell.

(4) *Incoming inspection* means the sampling and inspection of farmers stock peanuts to determine Segregation quality.

(5) *Segregation 1 peanuts*, unless otherwise specified, means farmers stock peanuts with not more than 2.49 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*.

(6) *Segregation 2 peanuts*, unless otherwise specified, means farmers stock peanuts with more than 2.49 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus*.

(7) *Segregation 3 peanuts*, unless otherwise specified, means farmers' stock peanuts with visible *Aspergillus flavus* mold.

(8) *Shelled peanuts* means the kernels of peanuts after the shells are removed.

(9) *Outgoing inspection* means the sampling and inspection of either: shelled peanuts which have been cleaned, sorted, sized and otherwise prepared for human consumption markets; or inshell peanuts which have been cleaned, sorted and otherwise prepared for inshell human consumption markets.

(10) *Negative aflatoxin content* means 15 parts-per-billion (ppb) or less for peanuts which have been certified as meeting edible quality grade requirements, and 25 ppb or less for non-edible quality peanuts.

(11) *Person* means an individual, partnership, corporation, association, or any other business unit.

(12) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture (USDA) who is, or who may hereafter be, authorized to act on behalf of the Secretary.

(13) *Inspection service* means the Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, USDA.

(14) *USDA laboratory* means laboratories of the Science and Technology Division, Agricultural Marketing Service, USDA, that chemically analyze peanuts for aflatoxin content.

(15) *PAC approved laboratories* means laboratories approved by the Peanut Administrative Committee, pursuant to Peanut Marketing Agreement No. 146 (7 CFR Part 998), that chemically analyze peanuts for aflatoxin content.

(16) *Conditionally released* means released under bond by the United States Customs Service (Customs Service) for consumption (use in the United States) or withdrawal from warehouse for consumption.

(17) *Importation* means the release from custody of the Customs Service.

(b) *Incoming regulation:* (1) Farmers stock peanuts presented for importation must first undergo incoming inspection. Only Segregation 1 peanuts may be used for human consumption. All foreign produced farmers stock peanuts for human consumption must be sampled and inspected at a buying point or other handling facility capable of performing incoming sampling and inspection. Sampling and inspection shall be conducted by the inspection service. Only Segregation 1 peanuts certified as meeting the following requirements may be used in human consumption markets:

(i) *Moisture.* Except as provided under paragraph (b)(2) *Seed peanuts*, of this section, peanuts may not contain more than 10.49 percent moisture: *Provided*, That peanuts of a higher moisture content may be received and dried to not more than 10.49 percent moisture prior to storage or milling.

(ii) *Foreign material.* Peanuts may not contain more than 10.49 percent foreign material, except that peanuts having a higher foreign material content may be held separately until milled, or moved over a sand-screen before storage, or shipped directly to a plant for prompt shelling. The term *sand-screen* means any type of farmers stock cleaner which, when in use, removes sand and dirt.

(iii) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(iv) *Loose shelled kernels.* Peanuts may not contain more than 14.49 percent loose shelled kernels, except that peanuts having a higher loose shelled kernel content may be imported if held separately until milled or shipped directly to a shelling facility for prompt shelling. All percentage determinations shall be rounded to the nearest whole number. Kernels which ride screens with the following or larger slot openings may be separated from loose shelled kernels: Runner—16/64 x 3/4 inch; Spanish and Valencia—15/64 x 3/4 inch; Virginia—15/64 x 1 inch. If so separated, those loose shelled kernels which ride the screens may be included with shelled peanuts prepared for inspection and sale for human consumption: *Provided*, That no more than 5 percent of such loose shelled kernels are kernels which would fall through screens with such minimum prescribed openings. Those loose shelled kernels which do not ride the screens shall be removed from the farmers' stock peanuts and shall be held separate and apart from other peanuts and disposed of for non-edible use, pursuant to paragraph (e) of this section. If the kernels which ride the prescribed screen are not separated from the kernels which do not ride the prescribed screen, the entire amount of loose shelled kernels shall be removed from the farmers stock peanuts and shall be held separate and apart and disposed of for non-edible use, pursuant to paragraph (e) of this section.

(2) *Seed peanuts.* Farmers stock peanuts determined to be Segregation 1 quality, and shelled peanuts certified negative to aflatoxin (15 ppb or less), may be imported for seed purposes. Disposition of such peanuts to a seed outlet must be reported to the Secretary by submitting a copy of the bill of lading or sales contract which reports the weight of the peanuts so disposed, and the name, address and telephone number of the receiving seed outlet. Residuals from the shelling of Segregation 1 seed peanuts shall be held and/or milled separate and apart from other peanuts, and such residuals meeting quality requirements specified in paragraph (c)(1) of this section may be disposed to human consumption channels, and any portion not meeting such quality requirements shall be disposed to non-edible peanut channels pursuant to paragraph (e) of this section. Segregation 2 and 3 peanuts may be shelled for seed purposes but must be dyed or chemically treated so as to be unfit for human or animal consumption. All disposition of seed peanuts and residuals from seed peanuts shall be reported to the Secretary pursuant to paragraphs (f)(2) and (3) of this section. The receiving seed outlet must retain records of the transaction, pursuant to paragraph (g)(7) of this section.

(3) *Oilstock and exportation.* Farmers stock peanuts of lower quality than Segregation 1 (Segregation 2 and 3 peanuts) shall be used only in non-edible outlets as provided herein. Segregation 2 and 3 peanuts may be commingled but shall be kept separate and apart from edible quality peanut lots. Commingled Segregation 2 and 3 peanuts and Segregation 3 peanuts shall be disposed only to oilstock, exported inshell, or shelled and fragmented for export as provided in paragraph (e) of this section. Shelled peanuts and cleaned-inshell peanuts which fail to meet the requirements for human consumption in paragraph (b)(1) may be crushed for oil or exported.

(4) Whenever the Secretary has reason to believe that peanuts may have been damaged or deteriorated while in storage, the Secretary may reject the then effective inspection certificate and may require the importer to have the peanuts reinspected to establish whether or not such peanuts may be disposed of for human consumption.

(c) *Outgoing regulation.* No person shall import peanuts for human consumption into the United States unless such peanuts are lot identified and certified by the inspection service as meeting the following requirements:

(1)(i) *Shelled peanuts.* All shelled peanuts shall at least meet the requirements specified in Table 1 as follows:

TABLE 1.—MINIMUM GRADE REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION

[Whole Kernels and Splits]

Maximum limitations							
Excluding lots of ''splits''							
Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels	Sound whole kernels	Total		
Runner	1.50	2.50	3.00%; 17/64 inch round screen.	3.00%; 16/64 × 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (except No. 2)	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 15/64 × 1 inch; slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia	1.50	2.50	3.00%; 16/64 inch; round screen.	3.00%; 15/64 × 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
No. 2 Virginia	1.50	3.00	6.00%; 17/64 inch; round screen.	6.00%; 15/64 × 1 inch; slot screen.	6.00%; both screens.	.20	9.00
Lots of ''splits''							
Runner (not more than 4% sound whole kernels).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 14/64 × 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (not more than 90% splits).	1.50	2.50	3.00%; 17/64 inch; round screen.	3.00%; 14/64 × 1 inch; slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia (not more than 4% sound whole kernels).	1.50	2.50	3.00%; 16/64 inch; round screen.	3.00%; 13/64 × 3/4 inch; slot screen.	4.00%; both screens.	.20	9.00

(ii) Peanuts meeting the specifications in Table 1 must also be certified ''negative'' to aflatoxin content, pursuant to paragraph (d)(4), prior to shipment to domestic human consumption markets. Shelled peanuts meeting requirements specified in Table 2 may be imported without sampling and testing for aflatoxin.

TABLE 2.—SUPERIOR QUALITY REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION

[Whole Kernels and Splits]

Maximum limitations							
Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total		
Runner U.S. No. 1 and better.	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 16/64 × 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Virginia U.S. No. 1 and better.	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 15/64 × 1 inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia U.S. No. 1 and better.	1.25	2.00	3.00%; 16/64 inch, round screen.	2.00%; 15/64 × 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Runner U.S. Splits (not more than 4% sound, whole kernels).	1.25	2.00	2.00%; 17/64 inch, round screen.	3.00%; 14/64 × 3/4 inch, slot screen.	4.00%; both screens.	.20	9.00
Virginia U.S. Splits (not less than 90% splits and not more than 3.00% sound whole kernels and portions passing through 20/64 inch round screen).	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 14/64 × 1 inch, slot screen.	4.00%; both screens.	.20	9.00

TABLE 2.—SUPERIOR QUALITY REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION—Continued

[Whole Kernels and Splits]

Type and grade category	Maximum limitations						
	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total		
Spanish and Valencia U.S. Splits (not more than 4% sound, whole kernels).	1.25	2.00	2.00%; 16/64 inch, round screen.	3.00%; 13/64 × 3/4 inch, slot screen.	4.00%; both screens.	.20	9.00
Runner with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 16/64 × 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00
Virginia with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 17/64 inch, round screen.	3.00%; 15/64 × 1 inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia with splits (not more than 15% sound splits).	1.25	2.00	3.00%; 16/64 inch, round screen.	2.00%; 15/64 × 3/4 inch, slot screen.	4.00%; both screens.	.10	9.00

(2) *Cleaned-inshell peanuts.* Peanuts declared as cleaned-inshell peanuts may be presented for sampling and inspection in bags at the port of entry. Alternatively, peanuts may be conditionally released as cleaned-inshell peanuts but shall not subsequently undergo any cleaning, sorting, sizing or drying process prior to presentation for outgoing inspection as cleaned-inshell peanuts. Cleaned-inshell peanuts intended for human consumption may not contain more than:

(i) 1.00 percent kernels with mold present, unless a sample of such peanuts is drawn by the inspection service and analyzed chemically by a USDA or PAC approved laboratory and certified ''negative'' as to aflatoxin.

(ii) 2.00 percent peanuts with damaged kernels;

(iii) 10.00 percent moisture (carried to the hundredths place); and

(iv) 0.50 percent foreign material.

(3) *Reconditioned peanuts.* Peanuts shelled, sized and sorted in another country prior to arrival in the U.S. and shelled peanuts which originated from Segregation 1 peanuts that fail quality requirements of Table 1 (excessive damage, minor defects, moisture, or foreign material) or are positive to aflatoxin may be reconditioned by remilling and/or blanching. After such reconditioning, peanuts meeting the quality requirements of Table 1 and which are negative to aflatoxin (15 ppb or less) may be disposed for edible peanut use.

(d) *Sampling and inspection.* (1) All sampling and inspection, quality certification, chemical analysis, and lot identification, required under this section, shall be done by the inspection service, a USDA laboratory, or a PAC-approved laboratory, as applicable, in accordance with the procedures specified herein. The importer shall make arrangements with the inspection service for sampling, inspection, identification and certification of all peanuts accumulated by the importer. The importer also shall make arrangements for the appropriate disposition of peanuts failing edible quality requirements of this section. All costs of sampling, inspection, certification, identification, and disposition incurred in meeting the requirements of this section shall be paid by the importer. Whenever peanuts are offered for inspection, the importer shall furnish any labor and pay any costs incurred in moving and opening containers as may be necessary for proper sampling and inspection.

(2) For farmers stock inspection, the importer shall cause the inspection service to perform an incoming inspection and to issue an CFSA–1007, ''Inspection Certificate and Sales Memorandum'' form designating the lot as Segregation 1, 2, or 3 quality peanuts. For shelled and cleaned-inshell peanuts, the importer shall cause the inspection service to perform an outgoing inspection and issue an FV–184–9A, ''Milled Peanut Inspection Certificate'' reporting quality and size of the shelled or cleaned-inshell peanuts, whether the lot meets or fails to meet quality requirements for human consumption of this section, and that the lot originated in a country other than the United States. The importer shall provide to the Secretary copies of all CFSA 1007 and FV–184–9A applicable to each peanut lot conditionally released to the importer. Such reports shall be submitted as provided in paragraph (g)(5) of this section.

(3) *Procedures for sampling and testing peanuts.* Sampling and testing of peanuts for incoming and outgoing inspections of peanuts presented for importation into the United States will be conducted as follows:

(i) *Application for sampling.* The importer shall request inspection and certification services from one of the following inspection service offices convenient to the location where the peanuts are presented for incoming and/or outgoing inspection. To avoid possible delays, the importer should make arrangements with the inspection service in advance of the inspection date. A copy of the Customs Service entry document specific to the peanuts to be inspected shall be presented to the inspection official prior to sampling of the lot.

(A) The following offices provide incoming, farmers stock inspection:

Dothan, AL, tel: (205) 792–5185,
Graceville, FL, tel: (904) 263–3204,
Winter Haven, FL, tel: (813) 291–5820, ext 260,
Albany, GA, tel: (912) 432–7505,
Williamston, NC, tel: (919) 792–1672,
Columbia, SC, tel: (803) 253–4597,
Suffolk, VA, tel: (804) 925–2286,
Portales, NM, tel: (505) 356–8393,
Oklahoma City, OK, tel: (405) 521–3864,
Gorman, TX, tel: (817) 734–3006,
Yuma, AZ, tel: (602) 344–3869.

(B) The following offices, in addition to the offices listed in paragraph (A), provide outgoing sampling and/or inspection services, and certify shelled and cleaned-inshell peanuts as meeting

or failing the quality requirements of this section:

Eastern U.S.

Mobile, AL, tel: (205) 690–6154,
Jacksonville, FL, tel: (904) 359–6430,
Miami, FL, tel: (305) 592–1375,
Tampa, FL, tel: (813) 272–2470,
Presque Isle, ME, tel: (207) 764–2100,
Baltimore/Washington, tel: (301) 344–1860,
Boston, MA, tel: (617) 389–2480,
Newark, NJ, tel: (201) 645–2670,
New York, NY, tel: (212) 718–7665,
Buffalo, NY, tel: (716) 824–1585,
Philadelphia, PA, tel: (215) 336–0845,
Norfolk, VA, tel: (804) 441–6218,

Central U.S.

New Orleans, LA, tel: (504) 589–6741,
Detroit, MI, tel: (313) 226–6059,
St. Paul, MN, tel: (612) 296–8557,
Las Cruces, NM, tel: (505) 646–4929,
Alamo, TX, tel: (210) 787–4091,
El Paso, TX, tel: (915) 540–7723,
Houston, TX, tel: (713) 923–2557,

Western U.S.

Nogales, AZ, tel: (602) 281–0783,
Los Angeles, CA, tel: (213) 894–2489,
San Francisco, CA, tel: (415) 876–9313,
Honolulu, HI, tel: (808) 973–9566,
Salem, OR, tel: (503) 986–4620,
Seattle, WA, tel: (206) 859–9801.

(c) Questions regarding inspection services or requests for further assistance may be obtained from: Fresh Products Branch, P.O. Box 96456, room 2049–S, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20090–6456, telephone (202) 690–0604, fax (202) 720–0393.

(ii) *Sampling.* Sampling of bulk farmers stock lots shall be performed at a facility that utilizes a pneumatic sampler or approved automatic sampling device. The size of farmers stock lots, shelled lots, and cleaned-inshell lots, in bulk or bags, shall not exceed 200,000 pounds. For farmers stock, shelled and cleaned-inshell lots not completely accessible for sampling, the applicant shall be required to have lots made accessible for sampling pursuant to inspection service requirements. The importer shall cause appropriate samples of each lot of edible quality shelled peanuts to be drawn by the inspection service. The amount of such peanuts drawn shall be large enough to provide for a grade and size analysis, for a grading check-sample, and for three 48-pound samples for aflatoxin assay. Because there is no acceptable method of drawing official samples from bulk conveyances of shelled peanuts, the importer shall arrange to have bulk conveyances of shelled peanuts sampled during the unloading process. A bulk lot sampled in this manner must be positive lot identified by the inspection service and held in a sealed bin until the associated inspection and aflatoxin test results have been reported.

(4) *Aflatoxin assay.* (i) The importer shall cause appropriate samples of each lot of shelled peanuts intended for edible consumption to be drawn by the inspection service. The three 48-pound samples shall be designated by the inspection service as ''Sample 1IMP,'' ''Sample 2IMP,'' and ''Sample 3IMP'' and each sample shall be placed in a suitable container and lot identified by the inspection service. Sample 1IMP may be prepared for immediate testing or Samples 1IMP, 2IMP, and 3IMP may be returned to the importer for testing at a later date under lot identification procedures.

(ii) The importer shall cause Sample 1IMP to be ground by the inspection service or a USDA or PAC-approved laboratory in a subsampling mill. The resultant ground subsample shall be of a size specified by the inspection service and shall be designated as ''Subsample 1–ABIMP.'' At the importer's option, a second subsample may also be extracted from Sample 1IMP and designated ''Subsample 1–CDIMP'' which may be sent for aflatoxin assay to a USDA or PAC-approved laboratory. Both subsamples shall be accompanied by a notice of sampling signed by the inspector containing identifying information as to the importer, the lot identification of the shelled peanut lot, and other information deemed necessary by the inspection service.

Subsamples 1–ABIMP and 1–CDIMP shall be analyzed only in a USDA or PAC-approved laboratory. The methods prescribed by the Instruction Manual for Aflatoxin Testing, SD Instruction-1, August 1994, shall be used to assay the aflatoxin level. The cost of testing and notification of Subsamples 1–ABIMP and 1–CDIMP shall be borne by the importer.

(iii) The samples designated as Sample 2IMP and Sample 3IMP shall be held as aflatoxin check-samples by the inspection service or the importer until the analyses results from Sample 1IMP are known. Upon call from the USDA or PAC-approved laboratory, the importer shall cause Sample 2IMP to be ground by the inspection service in a subsampling mill. The resultant ground subsample from Sample 2IMP shall be designated as ''Subsample 2–ABIMP.'' Upon further call from the laboratory, the importer shall cause Sample 3IMP to be ground by the inspection service in a subsampling mill. The resultant ground subsample shall be designated as ''Subsample 3–ABIMP.'' The importer shall cause Subsamples 2–ABIMP and 3–ABIMP to be sent to and analyzed only in a USDA or PAC-approved laboratory. Each subsample shall be accompanied by a notice of sampling. The results of each assay shall be reported by the laboratory to the importer. All costs involved in the sampling, shipment and assay analysis of subsamples required by this section shall be borne by the importer.

(iv)(A) Importers should contact one of the following USDA or PAC-approved laboratories to arrange for chemical analysis.

Science and Technology Division, AMS/USDA, P.O. Box 279, 301 West Pearl St., Aulander, NC 27805, Tel: (919) 345–1661 Ext. 156, Fax: (919) 345–1991

Science and Technology Division, AMS/USDA, 1211 Schley Ave., Albany, GA 31707, Tel: (912) 430–8490/8491, Fax: (912) 430–8534

Science and Technology Division, AMS/USDA, P.O. Box 488, Ashburn, GA 31714, Tel: (912) 567–3703

Science and Technology Division, AMS/USDA, 610 North Main St., Blakely, GA 31723, Tel: (912) 723–4570, Fax: (912) 723–3294

Science and Technology Division, AMS/USDA, P.O. Box 1368, Dothan, AL 36301, Tel: (205) 792–5185, Fax: (205) 671–7984

Science and Technology Division, AMS/USDA, 107 South Fourth St., Madill, OK 73446, Tel: (405) 795–5615, Fax: (405) 795–3645

Science and Technology Division, AMS/USDA, P.O. Box 272, 715 N. Main Street, Dawson, GA 31742, Tel: (912) 995–7257, Fax: (912) 995–3268

Science and Technology Division, AMS/USDA, P.O. Box 1130, 308 Culloden St., Suffolk, VA 23434, Tel: (804) 925–2286, Fax: (804) 925–2285

ABC Research, 3437 SW 24th Avenue, Gainesville, FL 32607–4502, Tel: (904) 372–0436, Fax: (904) 378–6483

J. Leek Associates, Inc., P.O. Box 50395, 1200 Wyandotte (31705), Albany, GA 31703–0395, Tel: (912) 889–8293, Fax: (912) 888–1166

J. Leek Associates, Inc., P.O. Box 368, 675 East Pine, Colquitt, GA 31737, Tel: (912) 758–3722, Fax: (912) 758–2538

J. Leek Associates, Inc., P.O. Box 6, 502 West Navarro St., DeLeon, TX 76444, Tel: (817) 893–3653, Fax: (817) 893–3640

J. Leek Associates, Inc., P.O. Box 548, 42 N. Ellis St., Camilla, GA 31730, Tel: (912) 336–8781, Fax: (912) 336–0146

Pert Laboratories, P.O. Box 267, Peanut Drive, Edenton, NC 27932, Tel: (919) 482–4456, Fax: (919) 482–5370

Pert Laboratory South, P.O. Box 149, Hwy 82 East, Seabrook Drive, Sylvester, GA 31791, Tel: (912) 776–7676, Fax: (912) 776–1137

Professional Service Industries, Inc., 3 Burwood Lane, San Antonio, TX 78216, Tel: (210) 349–5242, Fax: (210) 342–9401

Southern Cotton Oil Company, 600 E. Nelson Street, P.O. Box 180, Quanah, TX 79252, Tel: (817) 663–5323, Fax: (817) 663–5091

Quanta Lab, 9330 Corporate Drive, Suite 703, Selma, TX 78154–1257, Tel: (210) 651–5799, Fax: (210) 651–9271.

(B) Further information concerning the chemical analyses required pursuant to this section may be obtained from: Science and Technology Division, USDA/AMS, P.O. Box 96456, room 3507–S, Washington, DC 20090–6456, telephone (202) 720–5231, or facsimile (202) 720–6496.

(v) *Reporting aflatoxin assays.* A separate aflatoxin assay certificate, Form CSSD–3, ''Certificate of Analysis for Official Samples'', or equivalent PAC-approved laboratory form, shall be issued by the laboratory performing the analysis for each lot. The assay certificate shall identify the importer, the volume of the peanut lot assayed, date of the assay, and numerical test result of the assay. The results of the assay shall be reported as follows.

(A) Lots containing 15 ppb or less aflatoxin content shall be certified as ''Meets U.S. import requirements for edible peanuts under § 999.600 with regard to aflatoxin.''

(B) Lots containing more than 15 ppb aflatoxin content shall be certified as ''Fails to meet U.S. import requirements for edible peanuts under § 999.600 with regard to aflatoxin.'' The importer shall file USDA Form CSSD–3, or equivalent form, with the Secretary, regardless of result.

(5) *Appeal inspection.* In the event an importer questions the results of a quality and size inspection, an appeal inspection may be requested by the importer and performed by the inspection service. A second sample will be drawn from each container and shall be double the size of the original sample. The results of the appeal sample shall be final and the fee for sampling and analysis shall be charged to the importer.

(e) *Disposition of peanuts failing edible quality requirements.* (1) Peanuts failing grade and/or aflatoxin requirements shall be designated as non-edible quality ''unrestricted'' peanuts or ''restricted'' peanuts and shall be crushed for oil, exported, or disposed to other non-edible outlets as specified in this section. For the purposes of this regulation, the term ''non-edible quality unrestricted peanuts'' means loose shelled kernels, fall through, and pickouts from—and the entire milled production of—Segregation 1, Segregation 2, and commingled Segregation 1 and 2 farmers stock peanuts which contain more than 15 ppb and 25 ppb or less aflatoxin. The term ''non-edible quality restricted peanuts'' means loose shelled kernels, fall through, and pickouts from—and the entire milled production of—Segregation 1, Segregation 2, and commingled Segregation 1 and 2 farmers stock peanuts which contain in excess of 25 ppb aflatoxin. The term *loose shelled kernels* means peanut kernels or portions of kernels completely free of their hulls, as found in deliveries of farmers stock peanuts or those which fail to ride the screens prescribed in paragraph (d)(iv) of this section; the term *fall through* means sound split and broken kernels and whole kernels which pass through specified screens; and the term *pickouts* means those peanuts removed during the final milling process at the picking table, by electronic equipment, or otherwise during the milling process.

(2) Non-edible quality unrestricted peanuts may be disposed to animal feed: *Provided,* That such peanuts are certified by the inspection service as to moisture, foreign material content and treated with a coloring agent or dyeing solution covering at least 80 percent of the peanuts, handled and shipped under lot identification procedures. Except for bulk loads, red tags shall be used and marked ''Animal Feed, Not For Human Consumption.''

(3) Lots of non-edible quality unrestricted peanuts may be commingled during or after fragmentation and, if certified as meeting fragmentation requirements by the inspection service, such fragmented peanuts may be exported. For the purposes of this section, the term *fragmented* means that not more than 30 percent of the peanuts shall be whole kernels that ride the following screens, by type: Spanish—15/64×¾ inch slot; Runner—16/64×¾ inch slot; and Virginia—15/64×1 inch slot. All peanut lots exported must be lot identified by the inspection service and applicable Customs Service procedures for the export of merchandise must be followed.

(4) Unrestricted fall through may be disposed for use as wild-life feed and rodent bait, if in labeled containers.

(5) Seed peanuts which are chemically treated causing them to be unfit for edible or animal feed use shall be exempt from the requirements of paragraph (c) of this section.

(6) Meal produced from the crushing of unrestricted peanuts shall be exempt from further aflatoxin testing. Meal produced from the crushing of restricted peanuts shall be tested and the numerical test result of the chemical assay shall be shown on a certificate covering each lot and the certification shall accompany each shipment or disposition.

(7) Non-edible quality restricted peanuts may be crushed for oil or exported: *Provided,* That such peanuts are lot identified, bagged, red tagged, and so certified by the inspection service.

(8) Inspection certifications and proof of non-edible dispositions sufficient to account for all peanuts in each consumption entry filed by the importer must be reported to the Secretary by the importer pursuant to paragraphs (f) (2) and (3) of this section.

(f) *Reconditioning of failing peanuts:* (1) Importers may remill and/or blanch shelled peanuts which originated from Segregation 1 peanuts that fail quality requirements of Table 1 or are positive to aflatoxin. After such reconditioning, peanuts meeting the quality requirements of Table 1 and which are certified negative to aflatoxin (15 ppb or less) may be disposed for edible use.

(2) Whole lots of remilled and/or blanched peanuts, and residuals of such peanuts, which continue to fail quality requirements of Table 1 and contain 25 ppb or less aflatoxin content shall be considered ''non-edible quality unrestricted'' peanuts and shall be disposed as ''unrestricted'' peanuts crushed for oil, exported, or animal feed, pursuant to provisions of paragraph (e). Meal produced from unrestricted peanuts shall be disposed pursuant to paragraph (e)(5).

(3) Whole lots of remilled and/or blanched peanuts, and residuals of such peanuts, which continue to fail quality requirements of Table 1 and contain more than 25 ppb aflatoxin content, shall be considered ''non-edible quality restricted'' peanuts and shall be disposed as ''restricted'' peanuts pursuant to paragraph (e)(6). Meal produced from restricted peanuts shall be disposed pursuant to paragraph (e)(5).

(4) Inspection certifications and proof of non-edible dispositions sufficient to account for all peanuts in each consumption entry filed by the importer must be reported to the Secretary by the

importer pursuant to paragraphs (f) (2) and (3) of this section.

(g) *Safeguard procedures.* (1) Prior to arrival of a foreign produced peanut lot at a port of entry, the importer, or customs broker acting on behalf of the importer, shall mail or send by facsimile transmission (fax) a copy of the Customs Service entry documentation for the peanut lot to the inspection service office that will perform sampling of the peanut shipment. The documentation shall include identifying lot or container number(s) and volume of the peanut lot being entered, and the location (including city and street address), date and time for inspection sampling. The inspection office shall sign, stamp, and return the entry document to the importer. The importer shall present the stamped document to the Customs Service at the port of entry and send a copy of the document to the Secretary. The importer also shall cause a copy of the entry document to accompany the peanut lot and be presented to the inspection service at the inland destination of the lot.

(2) The importer shall file with the Secretary copies of the entry document and grade, aflatoxin, and identification certifications sufficient to account for all peanuts in each entry filed by the importer. Certificates and other documentation providing proof of non-edible disposition, such as bills of lading and sales receipts which report the weight of peanuts being disposed and the name, address and telephone number of the non-edible peanut receiver, must be sent to the Marketing Order Administration Branch, Attn: Report of Imported Peanuts. Facsimile transmissions and overnight mail may be used to ensure timely receipt of inspection certificates and other documentation. Fax reports should be sent to (202) 720–5698. Overnight and express mail deliveries should be addressed to USDA, AMS, Marketing Order Administration Branch, 14th and Independence Avenue, SW, Room: 2526–S, Washington, DC, 20250. Regular mail should be sent to AMS, USDA, P.O. Box 96456, room 2526–S, Washington, DC 20090–6456. Telephone inquiries should be made to (202) 720–6862.

(3) Certificates and other documentation for each peanut lot must be filed within 23 days of the filing date of the entry for the lot. Failure of an importer to receive edible certification—or arrange for appropriate non-edible disposition—on all foreign produced peanuts, and file such reports with the Secretary within 23 days of an entry declaration, may result in a request for a redelivery demand by the Customs Service. Extensions granted by the Customs Service will be correspondingly extended by the Secretary, upon request of the importer.

(4) The Secretary shall ask the Customs Service to demand redelivery of foreign produced peanut lots failing to meet requirements of this section. Importers unable to redeliver or account for all peanuts covered in a redelivery order shall be liable for liquidated damages. Failure to fully comply with quality and handling requirements or failure to notify the Secretary of disposition of all foreign produced peanuts, as required under this section, may result in a compliance investigation by the Secretary. Falsification of reports submitted to the Secretary is a violation of Federal law punishable by fine or imprisonment, or both.

(h) *Additional requirements:* (1) Nothing contained in this section shall be deemed to preclude any importer from milling or reconditioning prior to entry any shipment of peanuts for the purpose of making such lot eligible for importation. However, all peanuts presented for importation into the United States for human consumption use must be certified as meeting the quality requirements specified in paragraph (c) of this section.

(2) Conditionally released peanut lots of like quality and belonging to the same importer may be commingled. Defects in an inspected shelled lot may not be blended out by commingling with other shelled lots of higher quality. Such commingling must be consistent with applicable Customs Service regulations. Commingled lots must be reported and disposed of pursuant to paragraphs (f)(2) and (f)(3) respectively of this section.

(3) Inspection by the Federal or Federal-State Inspection Service shall be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (7 CFR part 51). The importer shall make each conditionally released lot available and accessible for inspection as provided herein. Because inspectors may not be stationed in the immediate vicinity of some ports-of-entry, importers must make arrangements for inspection and certification through one of the offices listed in this section.

(4) Imported peanut lots sampled and inspected at the port of entry, or at other locations, shall meet the quality requirements of this section in effect on the date of inspection.

(5) A foreign produced peanut lot, released by the Customs Service for consumption, may be transferred or sold to another person: *Provided,* That the original importer shall be the importer of record unless the new owner applies for bond and files Customs Service documents pursuant to 19 CFR 141.113 and 141.20: and *Provided further,* That such peanuts must be certified and reported to the Secretary pursuant to paragraphs (f)(2) and (3) of this section.

(6) The cost of transportation, sampling, inspection, certification, chemical analysis, and identification, as well as remilling and blanching, and further inspection of remilled and blanched lots, and disposition of failing peanuts, shall be borne by the importer. Whenever peanuts are presented for inspection, the importer shall furnish any labor and pay any costs incurred in moving, opening containers, and shipment of samples as may be necessary for proper sampling and inspection. The inspection service shall bill the importer for fees covering quality and size inspections; time for sampling; packaging and delivering aflatoxin samples to laboratories; certifications of lot identification and lot transfer to other locations, and other inspection certifications as may be necessary to verify edible quality or non-edible disposition, as specified herein. The USDA and PAC-approved laboratories shall bill the importer separately for fees for aflatoxin assay. The importer also shall pay all required Customs Service costs as required by that agency.

(7) Each person subject to this section shall maintain true and complete records of activities and transactions specified in this part. Such records and documentation accumulated during importation shall be retained for not less than two years after the calendar year of acquisition, except that Customs Service documents shall be retained as required by that agency. The Secretary, through duly authorized representatives, shall have access to any such person's premises during regular business hours and shall be permitted, at any such time, to inspect such records and any peanuts held by such person.

(8) The provisions of this section do not supersede any restrictions or prohibitions on peanuts under the Federal Plant Quarantine Act of 1912, the Federal Food, Drug and Cosmetic Act, any other applicable laws, or regulations of other Federal agencies, including import regulations and procedures of the Customs Service.

Dated: January 23, 1996.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 96–1667 Filed 1–31–96; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[Docket No. PRM–72–2]

Portland General Electric Company; Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; Notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Portland General Electric Company. The petition has been docketed by the Commission and has been assigned Docket No. PRM–72–2. The petitioner requests that the NRC amend its regulations which govern independent storage of spent nuclear fuel and high-level radioactive waste to specifically include radioactive waste produced from reactor operations pending its transfer to a permanent disposal facility. The petitioner believes that its proposal would clarify the process for interim storage pending transfer for disposal of this class of material.

DATES: Submit comments by April 16, 1996. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

For a copy of the petition, write: Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For information regarding electronic submission of comments, see the language in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7163 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION:

Background

The Nuclear Regulatory Commission received a petition for rulemaking dated November 2, 1995, submitted by Portland General Electric Company. The petition was docketed as PRM–72–2 on November 8, 1995. The petitioner is an NRC-licensed public utility authorized to possess the Trojan Nuclear Plant (TNP). The petitioner requests that the NRC amend its regulations in 10 CFR Part 72 entitled, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste.'' Specifically, the petitioner requests that 10 CFR Part 72 be amended to include radioactive waste that exceeds the concentration limits of radionuclides established for Class C waste in 10 CFR 61.55(a)(2)(iv).

The petitioner anticipates that it will need to dispose of radioactive waste categorized in 10 CFR 61.55(a)(2)(iv) as generally unsuitable for near-surface disposal during decommissioning activities at TNP. This material is commonly referred as ''greater than Class C'' (GTCC) waste because it exceeds the radionuclide concentration limits of Class C waste. 10 CFR 61.55(a)(2)(iv) requires that this type of waste must be disposed of in a geologic repository unless the NRC authorizes disposal at another licensed site.

The petitioner indicates that its TNP decommissioning plan, submitted to the NRC on January 26, 1995, specifies plans for transfer of spent reactor fuel currently being stored in the spent fuel pool to an onsite Independent Spent Fuel Storage Installation (ISFSI). The petitioner believes that because the ISFSI will be licensed under the requirements of 10 CFR Part 72, these regulations should be clarified to explicitly provide for storage of GTCC waste produced from reactor operations pending its transfer to a permanent disposal facility.

The NRC is soliciting public comment on the petition for rulemaking submitted by the Portland General Electric Corporation that requests the changes to the regulations in 10 CFR Part 72 as discussed below.

Discussion of the Petition

The petitioner notes that the regulations in 10 CFR Part 72 establish requirements, procedures, and criteria for the issuance of licenses to store spent fuel and other radioactive materials associated with spent fuel storage in an ISFSI. The petitioner believes that, based on evaluations by the NRC and other licensees, an ISFSI provides a safe, interim method to store highly radioactive spent fuel assemblies pending their transfer to a permanent repository. The petitioner's TNP Decommissioning Plan, submitted to the NRC on January 26, 1995, provides for the transfer of spent nuclear reactor fuel, currently being stored in the TNP spent fuel pool, to an onsite ISFSI. The petitioner suggests that, because the need to provide interim storage for GTCC waste is not specific to TNP and is generic, the regulations in 10 CFR Part 72 should be amended to explicitly provide for the isolation and storage of GTCC waste in a licensed ISFSI.

The petitioner also believes that the NRC must address this issue because decommissioning activities will involve a need to transfer or store before transfer other radioactive materials classified as GTCC, and because GTCC waste is not generally acceptable for near-surface disposal as specified in 10 CFR 61.55(a)(2)(iv). The petitioner anticipates that GTCC waste, like spent fuel and other radioactive materials associated with spent fuel, would be stored in the ISFSI pending the disposal in a geologic repository. The petitioner notes that the design criteria currently provided in 10 CFR Part 72, Subpart F, entitled ''General Design Criteria,'' establish design, fabrication, construction, testing, maintenance, and performance requirements for structures, systems, and components important to safety.

The petitioner also indicates that 10 CFR 72.122 encompasses quality standards, protection against environmental conditions, performance of confinement barriers, and the ability to retrieve radioactive waste for processing or disposal. Criteria are also currently provided for nuclear criticality safety, radiological protection, waste handling, and decommissioning. The petitioner believes that the proposed amendments to 10 CFR Part 72 would address the consideration of radioactive waste which is beyond the scope of 10 CFR Part 61 and would serve as an interface between these regulations.

The petitioner has concluded that the proposed amendments would prevent repetitious NRC staff reviews of individual requests to authorize storage and disposal of GTCC wastes. The petitioner also has concluded that the inclusion of GTCC waste under 10 CFR Part 72 would facilitate the eventual transfer of GTCC waste to a Department of Energy or other approved facility for proper disposal.

The Petitioner's Proposed Amendments

The petitioner requests that 10 CFR Part 72 be amended to overcome the problems the petitioner has itemized and recommends the following revisions to the regulations:

1. The petitioner proposes that § 72.1 be revised to read as follows:

§ 72.1 Purpose

The regulations in this part establish requirements, procedures, and criteria for the issuance of licenses to receive, transfer, and possess power reactor spent fuel, other radioactive materials associated with spent fuel storage, and radioactive waste which exceeds the radionuclide concentrations of Class C waste defined in § 61.55(a) as provided for in Part 61 of this chapter in an independent spent fuel storage installation (ISFSI) and the terms and conditions under which the Commission will issue such licenses, including licenses to the U.S. Department of Energy (DOE) for the provision of not more than 1900 metric tons of spent fuel storage capacity at facilities not owned by the Federal Government on January 7, 1993, for the Federal interim storage program under Subtitle B—Interim Storage Program of the Nuclear Waste Policy of 1982 (NWPA).

* * * * *

2. The petitioner proposes that § 72.2, paragraphs (a)(1), (a)(2), and (c) be revised to read as follows:

§ 72.2 Scope

(a) * * *

(1) Power reactor spent fuel to be stored in a complex that is designed and constructed specifically for storage of power reactor spent fuel aged for at least one year, other radioactive materials associated with spent fuel storage, and radioactive waste which exceeds the radionuclide concentrations of Class C waste defined in § 61.55(a) as provided for in Part 61 of this chapter, in an independent spent fuel storage installation (ISFSI); or

(2) Power reactor spent fuel to be stored in a monitored retrievable storage installation (MRS) owned by DOE that is designed and constructed specifically for storage of spent fuel aged for at least one year, high-level radioactive waste that is in solid form, other radioactive materials associated with spent fuel or high-level radioactive waste storage, and radioactive waste which exceeds the radionuclide concentrations of Class C waste defined in § 61.55(a) as provided for in Part 61 of this chapter. The term ''Monitored Retrievable Storage Installation'' or ''MRS,'' as defined in § 72.3, is derived from the NWPA and includes any installation that meets this definition.

* * * * *

(c) The requirements of this regulation are applicable, as appropriate, to both wet and dry modes of (1) spent fuel in an independent spent fuel storage installation (ISFSI) and (2) spent fuel and solid high-level radioactive waste, and radioactive waste which exceeds the radionuclide concentrations of Class C waste defined in § 61.55(a) as provided for in Part 61 of this chapter in a monitored retrievable storage installation (MRS).

* * * * *

3. The petitioner proposes that the definition of ''Spent Nuclear Fuel or Spent Fuel'' in § 72.3 be revised to read as follows:

§ 72.3 Definitions.

* * * * *

''Spent Nuclear Fuel'' or ''Spent Fuel'' means fuel that has been withdrawn from a nuclear reactor following irradiation, has undergone at least one year's decay since being used as a source of energy in a power reactor, and has not been chemically separated into its constituent elements by reprocessing. Spent fuel includes the special nuclear material, byproduct material, source material, and other radioactive materials associated with fuel assemblies. As used in this part, spent fuel shall also be deemed to include other radioactive materials which exceed the radionuclide concentrations of Class C waste defined in § 61.55(a) of this chapter.

* * * * *

The Petitioner's Conclusion

The petitioner has concluded that the proposed amendments to 10 CFR Part 72 would clarify the process for interim storage, pending transfer for disposal of waste that exceeds the limits for Class C waste, and would also ensure safe interim storage of this waste pending permanent disposal. The petitioner believes that the proposed amendments would provide identical public health and safety, and environmental protection as required for spent fuel located in an ISFSI. The petitioner has also concluded that the proposed amendments to 10 CFR Part 72 would avoid the costs associated with preparation of multiple requests for handling GTCC by licensees and the review of those requests by the NRC.

Electronic Submission of Comments

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on this rulemaking are also available for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number (800) 303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the ''Rules Menu'' option from the ''NRC Main Menu.'' Users will find the ''FedWorld Online User's Guides'' particularly helpful. Many NRC subsystems and data bases also have a ''Help/Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, (703) 321–3339, or by using Telnet via Internet: fedworld.gov. If using (703) 321–3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the ''Regulatory, Government Administration and State Systems,'' then selecting ''Regulatory Information Mall.'' At that point, a menu will be displayed that has an option ''U.S. Nuclear Regulatory Commission'' that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing ''/go nrc'' at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the ''Return to FedWorld'' option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems, but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules Menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is available. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP, that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems

Integration and Development Branch, NRC, Washington, DC 20555, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

Dated at Rockville, Maryland, this 26th day of January, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–2048 Filed 1–31–96; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 110 and 114

[Notice 1996–2]

Candidate Debates and News Stories

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission is seeking comments on proposed revisions to its regulations governing candidate debates and news stories produced by cable television organizations. These regulations implement the provisions of the Federal Election Campaign Act (FECA) which exempt news stories from the definition of expenditure under certain conditions. The proposed rules would indicate that cable television programmers, producers and operators may cover or stage candidate debates in the same manner as broadcast and print news media. The rules would also restate Commission policy that news organizations may not stage candidate debates if they are owned or controlled by any political party, political committee or candidate. No final decisions have been made by the Commission on any of the proposed revisions contained in this Notice. Further information is provided in the supplementary information which follows.

DATES: Comments must be received on or before March 4, 1996. The Commission will hold a hearing on March 20, 1996 at 10:00 a.m. Persons wishing to testify should so indicate in their written comments.

ADDRESSES: Comments must be made in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, N.W., Washington, D.C. 20463. The hearing will be held in the Commission's ninth floor meeting room, 999 E Street, N.W. Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, or Rosemary C. Smith, Senior Attorney (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The FECA generally prohibits corporations from making contributions or expenditures in connection with any election. 2 U.S.C. 441b. However, the definition of ''expenditure'' in section 431(9) indicates that news stories, commentaries, and editorials distributed through the facilities of any broadcast station, newspaper, magazine, or other periodical publication are not considered to be expenditures unless the facilities are owned or controlled by a political party, political committee, or candidate. 2 U.S.C. 431(9)(B)(i). This ''news story'' exemption forms the basis for the Commission's long-standing regulations at 11 CFR 100.7(b)(2), 100.8(b)(2), as well as the provisions of 11 CFR 110.13 and 114.4(f) which permit broadcasters and bona fide print media to stage candidate debates under certain conditions.

The Commission is now seeking comments on expanding the types of media entities that may stage candidate debates under sections 110.13 and 114.4 to include cable television operators, programmers and producers. Hence, proposed sections 110.13(a)(2) and 114.4(f) would allow these types of cable organizations to stage debates under the same terms and conditions as other media organizations such as broadcasters, and bona fide print media organizations. New language in sections 110.13, 100.7(b)(2) and 100.8(b)(2) would also permit cable organizations, acting in their capacity as news media, to cover or carry candidate debates staged by other groups. Examples of the types of programming that the Federal Communications Commission considers to be bona fide newscasts and news interview programs are provided in *The Law of Political Broadcasting and Cablecasting: A Political Primer*, 1984 ed., Federal Communications Commission, at p. 1494–99.

The proposed rules would be consistent with the intent of Congress not ''to limit or burden in any way the first amendment freedom of the press. * * *'' H.R. Rep. No. 93–1239, 93d Cong., 2d Sess. at 4 (1974). In Turner Broadcasting System, Inc. v. *Federal Communications Commission*, _____ U.S. _____, 114 S. Ct. 2445, 2456 (1994), the Supreme Court recognized that cable operators and cable programmers ''engage in and transmit speech, and they are entitled to the protection of the speech and press provisions of the First Amendment.''

The 1974 legislative history of the FECA also indicates that in exempting news stories from the definition of ''expenditure,'' Congress intended to assure ''the unfettered right of the newspapers, TV networks, and other media to cover and comment on political campaigns.'' H.R. Rep. No. 93–1239, 93d Cong., 2d Sess. at 4 (1974). Although the cable television industry was much less developed when Congress expressed this intent, it would be reasonable to conclude that cable operators, programmers and producers, when operating in their capacity as news producers and distributors, would be precisely the type of ''other media'' appropriately included within this exemption.

For these reasons, the Commission is proposing to allow cable operators, programmers and producers to act as debate sponsors. However, the Commission seeks comments on whether there are distinctions between cable operators, programmers and producers that should be considered in determining when it is appropriate for these types of organizations to stage candidate debates. In addition, are there other types of cable news organizations that should be included as debate sponsors?

The proposed rules would also be consistent with Advisory Opinion 1982–44, in which the Commission concluded that the press exemption permitted Turner Broadcasting System, Inc. to donate free cable cast time to the Republican and Democratic National Committees without making a prohibited corporate contribution. The cablecast programming on ''super satellite'' television station, WTBS in Atlanta, Georgia, was to be provided to a network of cable system operators. The Commission stated *inter alia* that ''the distribution of free time to both political parties is within the broadcaster's legitimate broadcast function and, therefore, within the purview of the press exemption.'' AO 1982–44.

The courts have also examined the application of the press exemption in section 431(9)(B)(i). *See, e.g., Readers Digest Ass'n* v. *FEC*, 509 F. Supp. 1210 (S.D.N.Y. 1981); *FEC* v. *Phillips Publishing Company, Inc.*, 517 F. Supp. 1308 (D.D.C. 1981). In *Reader's Digest*, the court articulated a two part test ''on which the exemption turns: whether the press entity is owned by the political party or candidate and whether the press entity was acting as a press entity in making the distribution complained of.'' *Readers Digest*, at p. 1215. The first prong is discussed more fully below. With regard to the second prong, the court stated that ''the statute would seem to exempt only those kinds of distribution that fall broadly within the press entity's legitimate press function.'' *Id.* at 1214. The Commission believes a cable operator, producer or programmer could satisfy this standard if it follows

the same guidelines as other debate sponsors. For example, it would be required to invite at least two candidates and refrain from promoting or advancing one over the other(s).

The Commission is also proposing to add language to sections 100.7(a)(2) and 100.8(a)(2) to provide that the news story exception in 2 U.S.C. 431(9) allows cable operators, producers and programmers to exercise legitimate press functions by covering or carrying news stories, commentaries and editorials in accordance with the same guidelines that apply to the print or broadcast media. For example, they would be subject to the same provisions regarding ownership by candidates and political parties as are broadcasters or print media. As noted above, however, comments are sought on whether there are distinctions between cable operators, programmers and producers that should be considered in determining which of these organizations are bona fide news organizations entitled to the press exemption.

The approach taken in the proposed rules regarding cable television entities would avoid conflict with the Federal Communication Commission's application of the equal opportunity requirements under the Communications Act of 1934. Section 315(a) of the Communications Act requires that broadcast station licensees, including cable television operators, who permit any legally qualified candidate to use a broadcasting station, must afford equal opportunities to all other such candidates for that office in the use of that broadcasting station. 47 U.S.C. 315(a). However, the equal opportunity requirement is not triggered if the broadcasting station airs a bona fide newscast, bona fide news interview, bona fide news documentary or on-the-spot coverage of bona fide news events (including political conventions). 47 U.S.C. 315(a)(1)–(4). In 1975, the Federal Communications Commission decided that broadcasts of debates between political candidates would be exempt from the equal opportunities requirement as on-the-spot coverage of bona fide news events where, *inter alia,* the broadcaster exercised a reasonable, good faith, judgment that it was newsworthy, and not for the purpose of giving political advantage to any candidate. *See, The Law of Political Broadcasting and Cablecasting: A Political Primer,* 1984 ed., Federal Communications Commission, at p. 1502. This ruling was expanded in 1983 to permit broadcastersponsorship of candidate debates. *Id.* Similarly, in 1992, the Federal Communications Commission ruled that independently produced *bona fide* news interview programs qualify for exemption from the equal opportunities requirement of the Communications Act. *In Matter of Request for Declaratory Ruling That Independently Produced Bona Fide News Interview Programs Qualify for the Equal Opportunities Exemption Provided in Section 315(a)(2) of the Communications Act,* FCC 92–288 (July 15, 1992).

The third change in the proposed rules would be the addition of language indicating that broadcast, cable and print media organizations, may not stage candidate debates if they are owned or controlled by a political party, political committee or candidate. This policy is not stated in the current candidate debate rules, although it was included in the 1979 explanation and justification for these rules. *See* 44 F.R. 76735 (December 27, 1979). It is based on 2 U.S.C. 431(9)(B)(i), which specifies that the news story exemption does not apply to media entities that are owned or controlled by a political party, political committee or candidate. Please note that this new language applies only to media corporations, and thus would not change the rules in 11 CFR 110.13 regarding candidate debates staged by nonprofit corporations under sections 501(c)(3) or (c)(4) of the Internal Revenue Code.

The Commission welcomes comments on the foregoing proposed amendments to 11 CFR 100.7, 100.8, 110.13 and 114.4(f) and the issues raised in this notice.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

These proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. The basis for this certification is that any small entities affected are already required to comply with the requirements of the Act in these areas.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 110

Campaign funds, Political candidates, Political committees and parties.

11 CFR Part 114

Business and industry, Elections, Labor.

For the reasons set out in the preamble, it is proposed to amend Subchapter A, Chapter I of Title 11 of the *Code of Federal Regulations* as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

1. The authority citation for Part 100 would continue to read as follows:

Authority: 2 U.S.C. 431, 438(a)(8).

2. Section 100.7 would be amended by revising paragraph (b)(2) to read as follows:

§ 100.7 Contribution (2 U.S.C. 431(8)).

* * * * *

(b) * * *

(2) Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station (including a cable television operator, programmer or producer), newspaper, magazine, or other periodical publication is not a contribution unless the facility is owned or controlled by any political party, political committee, or candidate, in which case the costs for a news story (i) which represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) which is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not a contribution.

* * * * *

3. Section 100.8 would be amended by revising paragraph (b)(2) to read as follows:

§ 100.8 Expenditure (2 U.S.C. 431(9)).

* * * * *

(b) * * *

(2) Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station (including a cable television operator, programmer or producer), newspaper, magazine, or other periodical publication is not an expenditure unless the facility is owned or controlled by any political party, political committee, or candidate, in which case the costs for a news story (i) which represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) which is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not an expenditure.

* * * * *

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

4. The authority citation for Part 110 would continue to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g and 441h.

5. Section 110.13 is revised to read as follows:

§ 110.13 Candidate debates.

(a) *Staging organizations.* (1) Nonprofit organizations described in 26 U.S.C. 501(c)(3) or (c)(4) and which do not endorse, support, or oppose political candidates or political parties may stage candidate debates in accordance with this section and 11 CFR 114.4(f).

(2) Broadcasters (including a cable television operator, programmer or producer), bona fide newspapers, magazines and other periodical publications may stage candidate debates in accordance with this section and 11 CFR 114.4(f), provided that they are not owned or controlled by a political party, political committee or candidate. In addition, broadcasters (including a cable television operator, programmer or producer), bona fide newspapers, magazines and other periodical publications, acting as press entities, may also cover or carry candidate debates in accordance with 11 CFR 100.7 and 100.8.

(b) *Debate structure.* The structure of debates staged in accordance with this section and 11 CFR 114.4(f) is left to the discretion of the staging organization(s), provided that:

(1) Such debates include at least two candidates; and

(2) The staging organization(s) does not structure the debates to promote or advance one candidate over another.

(c) *Criteria for candidate selection.* For all debates, staging organization(s) must use pre-established objective criteria to determine which candidates may participate in a debate. For general election debates, staging organization(s) shall not use nomination by a particular political party as the sole objective criterion to determine whether to include a candidate in a debate. For debates held prior to a primary election, caucus or convention, staging organizations may restrict candidate participation to candidates seeking the nomination of one party, and need not stage a debate for candidates seeking the nomination of any other political party or independent candidates.

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

6. The authority citation for Part 114 would continue to read as follows:

Authority: 2 U.S.C. 431(8)(B), 431(9)(B), 432, 437d(a)(8), 438(a)(8), and 441b.

7. Part 114 would be amended by revising paragraph (f) of § 114.4 to read as follows:

§ 114.4 Disbursements for communications beyond the restricted class in connection with a Federal election.

* * * * *

(f) *Candidate debates.* (1) A nonprofit organization described in 11 CFR 110.13(a)(1) may use its own funds and may accept funds donated by corporations or labor organizations under paragraph (f)(3) of this section to defray costs incurred in staging candidate debates held in accordance with 11 CFR 110.13.

(2) A broadcaster (including a cable television operator, programmer or producer), bona fide newspaper, magazine or other periodical publication may use its own funds to defray costs incurred in staging public candidate debates held in accordance with 11 CFR 110.13.

(3) A corporation or labor organization may donate funds to nonprofit organizations qualified under 11 CFR 110.13(a)(1) to stage candidate debates held in accordance with 11 CFR 110.13 and 114.4(f).

Dated: January 26, 1996.

Lee Ann Elliott,

Chairman.

[FR Doc. 96–1969 Filed 1–31–96; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Chapter VI

Notice of Deadline for Submitting Completed Applications To Begin Participation in the Tribal Self-Governance Program in Fiscal Year 1997 or Calendar Year 1997

AGENCY: Office of Self-Governance, Office of the Secretary, Interior.

ACTION: Notice of application deadline.

SUMMARY: In this notice, the Office of Self-Governance (OSG) establishes the deadline for tribes/consortia to submit completed applications to begin participation in the tribal self-governance program in fiscal year 1997 or calendar year 1997.

DATES: Tribes/consortia wishing to be considered for participation in the tribal self-governance program in fiscal year 1997 or calendar year 1997 must respond to this notice, except for those which are (1) currently involved with negotiations with the Department; (2) one of the 54 tribal entities with signed agreements; or (3) one of the tribal entities already included in the applicant pool as of the date of this notice. Completed application packages must be received by the Director, Office of Self-Governance by April 29, 1996.

ADDRESSES: Application packages for inclusion in the applicant pool should be sent to the Director, Office of Self-Governance, U.S. Department of the Interior, Mail Stop 2548, 1849 C Street NW, Washington DC 20240.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth D. Reinfeld, U.S. Department of the Interior, Office of Self-Governance, 1849 C Street NW, Mail Stop 2548, Washington DC 20240, 202–219–0240.

SUPPLEMENTARY INFORMATION: Under the Tribal Self-Governance Act of 1994, the Director, Office of Self-Governance may select up to 20 additional participating tribes/consortia per year for the tribal self-governance program, and negotiate and enter into an annual written funding agreement with each participating tribe. The Act mandates that the Secretary submit copies of the funding agreements at least 90 days before the proposed effective date to the appropriate committees of the Congress and to each tribe that is served by the Bureau of Indian Affairs (BIA) agency that is serving the tribe that is a party to the funding agreement. Initial negotiations with a tribe/consortium located in an area and/or agency which has not previously been involved with self-governance negotiations, will take approximately two months from start to finish. Since agreements for an October 1 to September 30 fiscal year need to be signed and submitted by July 1, new participating tribes would need to be selected by May 3 to allow sufficient time for negotiations.

Background

The tribal self-governance program is designed to promote self determination by allowing tribes to assume more control through negotiated agreements of programs operated by the Department of the Interior. The new law allows for negotiations to be conducted for programs operated by BIA and for programs operated by other bureaus and offices within the Department that are available to Indians or when there is an

historical, cultural, or geographic connection to an Indian tribe.

The Tribal Self-Governance Act of 1994 requires the Secretary, upon request of a majority of self-governance tribes, to initiate procedures under the Negotiated Rulemaking Act, 5 U.S.C. 561 *et seq.*, to negotiate and promulgate regulations necessary to carry out the tribal self-governance program. The Act calls for a negotiated rulemaking committee to be established pursuant to 5 U.S.C. 565 comprised of Federal and tribal representatives, with a majority of the tribal representatives representing self-governance tribes. The Act also authorizes the Secretary to adapt negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and the Indian tribes. On November 1, 1994, a majority of self-governance tribes wrote the Secretary requesting the immediate initiation of negotiated rulemaking. On February 15, 1995, the self-governance negotiated rulemaking committee was established.

On the same date, an interim rule was published in the Federal Register announcing the criteria for tribes to be included in an applicant pool and the establishment of the selection process for tribes/consortia to negotiate agreements pursuant to the Tribal Self-Governance Act of 1994. This interim rule was added to Title 25 of the Code of Federal Regulations at Part 1001 of Chapter VI. While it may be changed by later rulemaking, the Act stipulates that the lack of promulgated regulations will not limit its effect. The interim rule allowed an additional 20 new tribes/consortia to negotiate compacts and annual funding agreements for fiscal year 1996 and calendar year 1996 as authorized by the Act. To date, a total of 54 compacts and annual funding agreements have been negotiated.

Purpose of Notice

This notice is intended to allow up to 20 new tribes/consortia to be selected to negotiate compacts and annual funding agreements in fiscal year 1997 and calendar year 1997. The interim rules established at 25 CFR 1001.1 to 1001.5 will be used to govern the application and selection process for tribes/consortia to begin their participation in the tribal self-governance program in fiscal year 1997 and calendar year 1997. Applicants should be guided by the requirements in 25 CFR 1001.1 to 1001.5 in preparing their applications. Copies of the interim rules published in the Federal Register on February 15, 1995, may be obtained from the information contact person identified in this notice.

The Director's decision on the actual number of tribes that will enter negotiations will be made at a later date. Tribes already in the applicant pool will retain their existing ranking with tribes entering the applicant pool under these rules receiving a lower ranking. Being in the applicant pool will not guarantee that a tribe will actually be provided the opportunity to negotiate in any given year. However, it does mean that a tribe will not be passed over by a tribe with a lower ranking in the applicant pool or by a tribe not in the applicant pool, with the exception of a tribe already in the negotiation process.

For example, if the Department determines that 20 tribes will be afforded the opportunity to negotiate self-governance agreements in 1997, the tribes with the highest 20 rankings would be notified and negotiations would be scheduled. The tribe ranked 21 on the list would then have the highest ranking to negotiate a self-governance agreement in 1998 or might enter negotiations in 1997 if one of the first 20 tribes discontinued negotiations. In such a case, the tribe that discontinued negotiations would remain in the applicant pool with its original ranking and would be the first to be selected in 1997 for negotiating agreements commencing in 1998.

Dated: January 26, 1996.

William A. Sinclair,

Director, Office of Self-Governance.

[FR Doc. 96–1886 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–02–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Chapter XIV

Older Workers Benefit Protection Act of 1990 (OWBPA)

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Third Meeting of Negotiated Rulemaking Advisory Committee.

SUMMARY: EEOC announces the revised dates of the third meeting of the ''Negotiated Rulemaking Advisory Committee for Regulatory Guidance on Unsupervised Waivers of Rights and Claims under the Age Discrimination in Employment Act'' (the Committee). A Notice of Intent to form the Committee was published in the Federal Register on August 31, 1995, 60 FR 45388, and a Notice of Establishment of the Committee was published in the Federal Register on October 20, 1995, 60 FR 54207.

DATES: The third meeting will be held on March 6–7, 1996, beginning at 10:00 a.m. on March 6. It is anticipated that the meeting will last for two days. The session of March 7, 1996 will commence at 9:00 a.m..

ADDRESSES: The meeting will be held at the EEOC Headquarters, 1801 L Street, N.W., Washington, D.C. 20507.

FOR FURTHER INFORMATION CONTACT: Joseph N. Cleary, Paul E. Boymel, or John K. Light, ADEA Division, Office of Legal Counsel, EEOC, 1801 L Street, N.W., Washington, D.C. 20507, (202) 663–4692.

SUPPLEMENTARY INFORMATION: All Committee meetings, including the meeting of March 6–7, will be open to the public. Any member of the public may submit written comments for the Committee's consideration, and may be permitted to speak at the meeting if time permits. In addition, all Committee documents and minutes will be available for public inspection on EEOC's Library (6th floor of the EEOC Headquarters).

Persons who need assistance to review the comments will be provided with appropriate aids such as readers or print magnifiers. To schedule and appointment call (202) 663–4630 (voice), (202) 663–4630 (TDD). Copies of this notice are available in the following alternate formats: large print, braille, electronic file on computer disk, and audio tape. Copies may be obtained from the Office of Equal Employment Opportunity by calling (202) 663–4395 (voice), (202) 663–4399 (TDD).

Purpose of Meeting/Summary of Agenda: At the meeting, the Committee will continue to discuss the unsupervised waiver legal issues that will be considered by the Committee in drafting a recommended notice of proposed rulemaking for EEOC approval.

Dated: January 26, 1996.

Francess M. Hart,

Executive Officer.

[FR Doc. 96–2086 Filed 1–31–96; 8:45 am]

BILLING CODE 6570–06–M

29 CFR Chapter XIV

Older Workers Benefit Protection Act of 1990 (OWBPA); Cancellation of Meeting

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Cancellation of Meeting of Negotiated Rulemaking Advisory Committee.

SUMMARY: On January 19, 1996, 61 FR 1282, EEOC announced the scheduled dates, February 6–7, 1996, for a meeting of EEOC's Negotiated Rulemaking Advisory Committee for Regulatory Guidance on Unsupervised Waivers of Rights and Claims under the Age Discrimination in Employment Act'' (the Committee). The meeting scheduled for February 6–7, 1996 has been cancelled.

FOR FURTHER INFORMATION CONTACT: Joseph N. Cleary, Paul E. Boymel, or John K. Light, ADEA Division, Office of Legal Counsel, EEOC, 1801 L Street, N.W., Washington, D.C. 20507, (202) 663–4692.

SUPPLEMENTARY INFORMATION: Copies of this notice are available in the following alternate formats: large prints, braille, electronic file on computer disk, and audio tape. Copies may be obtained from the Office of Equal Employment Opportunity by calling (202) 663–4395 (voice), (202) 663–4399 (TDD).

Dated: January 26, 1996.

Frances M. Hart,

Executive Officer.

[FR Doc. 96–2085 Filed 1–31–96; 8:45 am]

BILLING CODE 6570–06–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

[SPATS NO. NM–036–FOR]

New Mexico Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the New Mexico regulatory program (hereinafter, the ''New Mexico program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to and/or additions of rules pertaining to definitions; procedures for designating lands unsuitable for coal mining; permit application requirements concerning compliance information, the reclamation plan, and the subsidence information and control plan; procedures concerning permit application review; criteria for permit approval or denial; procedures concerning improvidently issued permits; permit conditions; requirements concerning ownership and control information; and performance standards for coal exploration, hydrologic balance, permanent and temporary impoundments, coal processing waste, disposal of noncoal waste, protection of fish, wildlife, and related environmental values, revegetation success, subsidence control, and roads. The amendment is intended to revise the New Mexico program to consistent with the corresponding Federal regulations, incorporate the additional flexibility afforded by the revised Federal regulations, and improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., m.s.t., March 4, 1996. If requested, a public hearing on the proposed amendment will be held on February 26, 1996. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.s.t., on February 16, 1996.

ADDRESSES: Written comments should be mailed or hand delivered by Guy Padgett at the address listed below.

Copies of the New Mexico program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Guy Padgett, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette Avenue, NW., Suite 1200, Albuquerque, New Mexico 87102

Mining and Minerals Division, New Mexico Energy & Minerals Department, 2040 South Pacheco Street, Santa Fe, New Mexico 87505, Telephone: (505) 827–5970

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (505) 248–5081.

SUPPLEMENTARY INFORMATION:

I. Background on the New Mexico Program

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. General background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the New Mexico program can be found in the December 31, 1980, Federal Register (45 FR 86459). Subsequent actions concerning New Mexico's program and program amendments can be found at 30 CFR 931.11, 931.15, 931.16, and 931.30.

II. Proposed Amendment.

By letter dated January 22, 1996, New Mexico submitted a proposed amendment to its program (administrative record No. NM–766) pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). New Mexico submitted the proposed amendment at its own initiative and in response to the required program amendments at 30 CFR 931.16 (a), (c), (d), and (f) through (s) (55 FR 48841, November 23, 1990; 56 FR 67520, December 31, 1991; and 58 FR 65907, December 17, 1993).

The provisions of the Coal Surface Mining Commission (CSMC) rules that New Mexico proposes to revise are:

CSMC Rule 80–1–5, by (1) adding new definitions for ''applicant/violator system or avs,'' ''drinking, domestic or residential water supply,'' ''federal violation notice,'' ''material damage,'' ''noncommercial building,'' ''occupied residential dwelling and associated structures,'' ''OSM,'' ''ownership or control link,'' ''replacement of water supply,'' ''SMCRA,'' ''state violation notice,'' and ''qualified laboratory,'' and (2) revising existing definitions for ''road and'' ''violation notice;''

CSMC Rule 80–4–15(b)(1), concerning procedures for designating land unsuitable for coal mining, by adding the requirement that the regulatory authority notify the general public of the receipt of the petition and request submissions of relevant information through the publication of a notice in the New Mexico State Register;

CSMC Rule 80–7–14(c), concerning permit application requirements for compliance information, by adding the requirement for information on violations received pursuant to SMCRA, its implementing regulations, and to any State or Federal law, rule or regulation enacted or promulgated pursuant to SMCRA;

CSMC Rules 80–9–25(a)(2), (a)(3), and (c), concerning permit application requirements for the reclamation plan, by adding the requirement that certain existing design specifications apply to structures that meet the U.S. Soil Conservation Service Class B or C criteria for dams in this agency's Technical Release No. 60 (210–VI–TR60, October 1985), ''Earth Dams and Reservoirs;''

CSMC Rules 80–9–39(a) through (c), concerning permit application requirements for the subsidence information and control plan, to (1) add the requirement for a description of the measures to be taken to mitigate or

remedy subsidence-related material damage (regardless of the liability, or lack thereof, under other State laws) to the land and subsidence-related material damage incurred after October 24, 1992, by occupied residential dwellings, structures related thereto, and noncommercial buildings and (2) remove the exception to the requirement to mitigate or remedy subsidence-related material damage that was previously allowed at CSMC Rule 80–9–39(c)(2);

CSMC Rules 80–11–17(c) and (d) and 80–11–19(i), concerning the requirement that the regulatory authority, when making a determination of whether a pattern of willful violations exists (during review of a permit application and when deciding whether to approve a permit application), shall also consider violations received by the applicant, anyone who owns or controls the applicant, or the operator named in the application, pursuant to SMCRA, the Federal regulations at 30 CFR Chapter VII, the Federal program for Indian lands, Federal programs for States, or OSM-approved State programs other than the New Mexico program;

CSMC Rules 80–11–20(b)(1)(ii) and (3), concerning the review criteria under which the regulatory authority would find that a surface coal mining and reclamation permit had been improvidently issued, by including situations where (1) the permit was issued on the presumption that a notice of violation was in the process of being corrected, but a cessation order subsequently was issued, and (2) the permittee was linked to the violation, penalty, or fee through ownership or control under the violations review criteria of the regulatory program at the time the permit was issued, an ownership or control link between the permittee and the person responsible for the violation, penalty, or fee still exists, or where the link has been severed, the permittee continues to be responsible for the violation, penalty, or fee.

CSMC Rules 80–11–20(c) and (e) by adding (1) provisions identifying when the provisions for challenging ownership or control links and the status of violations at Rule 80–11–34 apply to determinations regarding improvidently issued permits and (2) a provision which establishes public notice and administrative review procedures that are applicable when the regulatory authority decides to suspend or rescind a permit;

CSMC Rules 80–11–24(a) and (c) by specifying new timeframes and review procedures applicable to automatic permit suspension and rescission;

CSMC Rule 80–11–29(d), concerning the permit condition which identifies the permittee's responsibility upon receiving a cessation order issued by New Mexico, by including cessation orders issued in accordance with the Federal regulations at 30 CFR 843.11;

CSMC Rules 80–11–31 through 80–11–34 by adding new provisions concerning verification of ownership or control application information, review of ownership or control and violation information, procedures for challenging ownership or control links shown in the applicant violator system (AVS), and standards for challenging ownership or control links and the status of violations;

CSMC Rules 80–19–15(c)(2) through (c)(4), concerning performance standards for coal exploration, by applying the reclamation requirements to all roads or other transportation facilities used in exploration activities;

CSMC Rules 80–20–41(e)(3)(i), 80–20–82(a)(4), 80–20–89(d)(2), concerning respectively, general requirements for the hydrologic balance, site inspections for coal processing waste banks, and disposal of noncoal wastes, by referencing, respectively, (1) ''Rule 80–20–41(e)(2)(i),'' (2) ''Part 9,'' and (3) the New Mexico Water Quality Control Commission regulations at ''Section 3–109 D.''

CSMC Rule 80–20–49(e), concerning performance standards for permanent and temporary impoundments, by adding the requirement that certain existing design specifications apply to structures that meet the U.S. Soil Conservation Service Class B or C criteria for dams in this agency's Technical Release No. 60 (210–VI–TR60, October 1985), ''Earth Dams and Reservoirs;''

CSMC Rule 80–20–93(a), concerning design and construction of coal processing waste dams and embankments, by removing the provision at paragraph (a)(1) which required that the design freeboard between the lowest point on the embankment crest and the maximum water elevation be at least 3 feet;

CSMC Rules 80–20–97 (b) and (c), concerning performance standards for protection of fish, wildlife, and related environmental values, by (1) referring to ''surface coal mining operations or reclamation'' in order to extend the protection of threatened and endangered species to areas disturbed by the conduct of reclamation in addition to surface coal mining operations and surface impacts of underground mining operations and (2) requiring protection of endangered or threatened species listed by the New Mexico Game and Fish Department;

CSMC Rule 80–20–116(b) (1) and (6), concerning revegetation success standards, by (1) providing for approval of normal husbandry practices that would not restart the liability period, (2) removing the unconditional allowance for interseeding and supplemental fertilization in the first 2 or 7 years of the applicable 5- or 10-year liability period, (3) recodifying Rules 80–20–116(b)(1) (i) and (ii) as Rules 80–20–116(b) (2) and (3) with editorial revisions; and (4) recodifying Rules 80–20–116(b) (2) and (3) as Rules 80–20–116(b) (4) and (5), and revising paragraph (5) to provide that revegetated ''shrubland stocking'' may be considered successful when it is at least 90 percent of the technical standard developed using historic records;

CSMC Rule 80–20–117, concerning revegetation success standards for tree and shrub stocking, by (1) requiring that the tree and shrub stocking success standards apply to reclaimed lands developed for use as fish and wildlife habitat, recreation, and shelterbelts, in addition to forestry, and (2) including the requirement that trees and shrubs used in determining the success of stocking and the adequacy of the plant arrangement shall have the utility for the approved postmining land use;

CSMC Rule 80–20–117, concerning revegetation success standards for tree and shrub stocking, by recodifying Rule 80–20–117(b), concerning areas where commercial forest land is the approved postmining land use, as Rule 80–20–117(c) and (1) clarifying at paragraph (c)(1) that the success standard for stocking of trees and shrubs will be determined by the State Forester ''on a permit-specific basis,'' and (2) referencing in, respectively, paragraphs (c)(3) and (c)(4), the procedures for determining the number of trees or shrubs and the ground cover at ''Sections 20–116(b)(5)(iv) and 20–117(b),'' and the requirements for successful stocking of trees and shrubs and groundcover in ''Sections 20–116 and 20–117;''

CSMC Rule 80–20–117, concerning revegetation success standards for tree and shrub stocking, by recodifying Rule 80–20–117(c), concerning performance standards for areas where woody plants are used for wildlife management, recreation, shelter belts, or forest uses other than commercial forest land, as Rule 80–20–117(d), and, at paragraph (d)(2), by (1) referencing ''Sections 20–116(b) and (5)(iv) and Section 20–117(d)(1)'' for the success standards for revegetated stocking of trees, half-shrubs, shrubs, and ground cover, and

(2) removing the requirement that stocking of live woody plants shall be equal to or greater than 90 percent of the stocking of woody plants of the same life forms ascertained pursuant to Section 20–116(a);

CSMC Rule 80–20–117(d)(3)(i), concerning the required demonstration for success of revegetated woody plants required upon expiration of the 5 or 10 year responsibility period and at the time of request for bond release, by (1) referencing ''Section 20–117(b)'' for the success standards for stocking, (2) requiring 90, rather than 80, percent statistical confidence when demonstrating success, and (3) providing for the ''use of an appropriate (parametric or nonparametric) one-tail test with a 10 percent alpha error'' when determining the statistical confidence of the measurements of successful stocking;

CSMC Rules 80–20–121 (a) through (d) by providing new performance standards for subsidence control;

CSMC Rules 80–20–124 (a) through (d) by (1) providing new performance standards for the measures to be taken to mitigate or remedy subsidence-related material damage (regardless of the liability, or lack thereof, under other State laws) to the land and subsidence-related material damage incurred after October 24, 1992, by occupied residential dwellings, structures related thereto, and noncommercial buildings, and (2) requiring the replacement of any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities conducted after October 24, 1992, if the affected well or spring was in existence before the date the regulatory authority received the permit application for the activities causing the loss, contamination or interruption;

CSMC Rules 80–20–125 (a) through (e) by providing new performance standards concerning the rebuttable presumption of causation for damage resulting from subsidence;

CSMC Rules 80–20–127 by providing a new performance standard that requires the permittee to obtain additional performance bond in the amount of the estimated cost of the repairs if the permittee will be repairing, or in the amount of the decrease in value if the permittee will be compensating the owner, or in the amount of the estimated cost to replace the protected water supply if the permittee will be replacing the water supply, until the repair, compensation, or replacement is completed, unless repair, compensation, or replacement is completed within 90 days of the occurrence of damage; and

CSMC Rule 80–20–150, concerning roads, by removing the provision at paragraph (c), which prohibited vehicular use of fords or low water crossings by ancillary roads at any time there is a visible surface flow.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the New Mexico program.

1. Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

2. Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.s.t., on February 16, 1996. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

3. Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have

a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 931

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 24, 1996.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 96–1989 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 943

[SPATS No. TX–029–FOR]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Texas regulatory program (hereinafter the ''Texas program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Texas Coal Mining Regulations pertaining to road systems, support facilities, and utility installations. The amendment is intended to revise the Texas program to be consistent with the corresponding Federal regulations and incorporate the additional flexibility afforded by the revised Federal regulations.

DATES: Written comments must be received by 4:00 p.m., c.s.t., March 4, 1996. If requested, a public hearing on the proposed amendment will be held on February 26, 1996. Requests to speak at the hearing must be received by 4:00 p.m., c.s.t., on February 16, 1996.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Jack R. Carson, Acting Director, Tulsa Field Office, at the address listed below.

Copies of the Texas program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

Jack R. Carson, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma, 74135–6547, Telephone: (918) 581–6430.

Surface Mining and Reclamation Division, Railroad Commission of Texas, 1701 North Congress Avenue, P.O. Box 12967, Austin, Texas, 78711–2967, Telephone: (512) 463–6900.

FOR FURTHER INFORMATION CONTACT: Jack R. Carson, Acting Director, Tulsa Field Office, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. General background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 27, 1980, Federal Register (45 FR 12998). Subsequent actions concerning the Texas program can be found at 30 CFR 943.10, 943.15, and 943.16.

II. Description of the Proposed Amendment

By letter dated December 20, 1995 (Administrative Record No. TX–608), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment in response to a February 21, 1990, letter (Administrative Record No. TX–476) that OSM sent to Texas in accordance with 30 CFR 732.17(c) and at its own initiative. The provisions of the Texas Coal Mining Regulations (TCMR) that Texas proposes to amend are TCMR 708.008(71), definition of road; 780.154, road systems and support facilities; 816.400–403, roads, primary roads, utility installations, and support facilities (surface); 784.198, road systems and support facilities (underground); 817–569–572, roads, primary roads, utility installation, and support facilities (underground); 815.327, coal exploration performance standards; and 827.651, coal processing plants performance standards.

1. *TCMR 701.008(71), Definition of Road.*

Texas proposes to revise its definition of road to read as follows.

''Road'' means a surface right-of-way for purposes of travel by land vehicles used in surface coal mining and reclamation operations or coal exploration. A road consists of the entire area within the right-of-way, including the roadbed, shoulders, parking and side areas, approaches, structures, ditches, and surface. The term includes access and haulroads constructed, used, reconstructed, improved, or maintained for use in surface coal mining and reclamation operations or coal exploration, including use by coal-hauling vehicles to and from transfer, processing, or storage areas. The term does not include ramps and routes of travel within the immediate mining area or within spoil or coal mine waste disposal areas.

2. *TCMR 780.154 (Surface Mining) and 784.198 (Underground Mining), Road Systems and Support Facilities.*

Texas proposes to remove its currents provisions at TCMR 780.154 for surface mining operations and TCMR 784.198 for underground mining operations, entitled Transportation Facilities, and replace them with the following provisions, entitled Road Systems and Support Facilities. Significant differences between the surface and underground regulations are shown with the underground language in brackets.

(a) Plans and drawings. Each applicant for a surface [an underground] coal mining and reclamation permit shall submit plans and drawings for each road, as defined in Section 701.008 of this chapter, to be constructed, used, or maintained within the proposed permit area. The plans and drawings shall:

(1) Include a map, appropriate cross sections design drawings and specifications for road widths, gradients, surfacing materials, cuts, fill embankments, culverts, bridges, drainage ditches, low-water crossings, and drainage structures;

(2) Contain the drawings and specifications of each proposed road that is located in the channel of an intermittent or perennial stream, as necessary for approval of the road by the Commission in accordance with Section 816.400(d)(1) [817.569(d)(1)] of this chapter;

(3) Contain the drawings and specifications for each proposed ford of perennial or intermittent streams that is

used as a temporary route, as necessary for approval of the ford by the Commission in accordance with Section 816.401(c)(2) [817.570(c)(2)] of this chapter;

(4) Contain a description of measures to be taken to obtain approval of the Commission for alteration or relocation of a natural stream channel under Section 816.401(d)(5) [817.570(d)(5)] of this chapter;

(5) Contain the drawings and specifications for each low-water crossing of perennial or intermittent stream channels so that the Commission can maximize the protection of the stream in accordance with Section 816.401(d)(6) [817.570(d)(6)] of this chapter; and

(6) Describe the plans to remove and reclaim each road that would not be retained under an approved postmining land use, and the schedule for this removal and reclamation.

(b) Primary road certification. The plans and drawings for each primary road shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer with experience in the design and construction of roads as meeting the requirements of this chapter; current, prudent engineering practices; and any design criteria established by the Commission.

(c) Support Facilities. Each applicant for a surface [underground] coal mining and reclamation permit shall submit a description, plans, and drawings for each support facility to be constructed, used, or maintained within the proposed permit area. The plans and drawings shall include a map, appropriate cross sections, design drawings, and specifications sufficient to demonstrate compliance with Section 816.403 [817.572] of this chapter for each facility.

3. Texas proposes to repeal its current regulations pertaining to roads, other transportation facilities, support facilities, and utility installations at TCMR 816.400 through 422 for surface mining operations and at TCMR 817.569 through 591 for underground mining operations.

4. *TCMR 816.400 (Surface Mining) and TCMR 817.569 (Underground Mining), Roads: General.*

At TCMR 816.400 for surface mining operations and TCMR 817.569 for underground mining operations, Texas proposes the following new provisions pertaining to general requirements for roads. Differences between the surface and underground regulations are shown with the underground language in brackets.

(a) Road classification system.

(1) Each road, as defined in Section 701.008 of this chapter, shall be classified as either a primary road or an ancillary road.

(2) A primary road is any road which is:

(i) Used for transporting coal or spoil;

(ii) Frequently used for access or other purposes for a period in excess of six months; or

(iii) To be retained for an approved postmining land use.

(3) An ancillary road is any road not classified as a primary road.

(b) Performance standards. Each road shall be located, designed, constructed, reconstructed, used, maintained, and reclaimed so as to :

(1) Control or prevent erosion, siltation, and the air pollution attendant to erosion, including road dust as well as dust occurring on other exposed surfaces, by measures such as vegetating, watering, using chemical or other dust suppressants, or otherwise stabilizing all exposed surfaces in accordance with current, prudent engineering practices;

(2) Control or prevent damage to fish, wildlife, or their habitat and related environmental values;

(3) Control or prevent additional contributions of suspended solids to stream flow or runoff outside the permit area;

(4) Neither cause nor contribute to, directly or indirectly, the violation of State or Federal water quality standards applicable to receiving waters;

(5) Refrain from seriously altering the normal flow of water in streambeds or drainage channels;

(6) Prevent or control damage to public or private property, including the prevention or mitigation of adverse effects on lands within the boundaries of units of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including designated study rivers, and National Recreation Areas designated by Act of Congress; and

(7) Use nonacid- and nontoxic-forming substances in road surfacing.

(c) Design and construction limits and establishment of design criteria. To ensure environmental protection appropriate for their planned duration and use, including consideration of the type and size of equipment used, the design and construction or reconstruction of roads shall incorporate appropriate limits for grade, width, surface materials, surface drainage control, culvert placement, and culvert size, in accordance with current, prudent engineering practices, and any necessary design criteria established by the Commission.

(d) Location.

(1) No part of any road shall be located in the channel of an intermittent or perennial stream unless specifically approved by the Commission in accordance with the applicable portions of Sections 816.339 through 816.355 [817.509 through 817.524] of this chapter.

(2) Roads shall be located to minimize downstream sedimentation and flooding.

(e) Maintenance.

(1) A road shall be maintained to meet the performance standards of this part and any additional criteria specified by the Commission.

(2) A road damaged by a catastrophic event, such as a flood or earthquake, shall be repaired as soon as is practicable after the damage has occurred.

(f) Reclamation. A road not to be retained under an approved postmining land use shall be reclaimed in accordance with the approved reclamation plan as soon as practicable after it is no longer needed for mining and reclamation operations. This reclamation shall include:

(1) Closing the road to traffic;

(2) Removing all bridges and culverts unless approved as part of the postmining land use;

(3) Removing or otherwise disposing of road-surfacing materials that are incompatible with the postmining land use and revegetation requirements;

(4) Reshaping cut and fill slopes as necessary to be compatible with the postmining land use and to complement the natural drainage pattern of the surrounding terrain;

(5) Protecting the natural drainage patterns by installing dikes or cross drains as necessary to control surface runoff and erosion; and

(6) Scarifying or ripping the roadbed; replacing topsoil or substitute material, and revegetating disturbed surfaces in accordance with Sections 816.334 through 816.338 and 816.390 through 816.396 [817.504 through 817.508 and 817.555 through 817.561] of this chapter.

5. *TCMR 816.401 (Surface Mining) and TCMR 817.570 (Underground Mining), Primary Roads.*

At TCMR 816.401 for surface mining operations and 817.570 for underground mining operations, Texas proposes the following new provisions pertaining to primary roads. Differences between the surface and underground regulations are shown with the underground language in brackets.

Primary roads shall meet the requirements of Section 816.400

[817.569] and the additional requirements of this section.

(a) Certification. The construction or reconstruction of primary roads shall be certified in a report to the Commission by a qualified registered professional engineer [with experience in the design and construction or roads]. The report shall indicate that the primary road has been constructed or reconstructed as designed and in accordance with the approved plan.

(b) Safety Factor. Each primary road embankment shall have a minimum static factor of 1.3 or meet the requirements established under Section 780.154 [784.198] of this chapter.

(c) Location.

(1) To minimize erosion, a primary road shall be located, insofar as is practicable, on the most stable available surface.

(2) Fords of perennial or intermittent streams by primary roads are prohibited unless they are specifically approved by the Commission as temporary routes during periods of road construction.

(d) Drainage control. In accordance with the approved plan:

(1) Each primary road shall be constructed or reconstructed, and maintained to have adequate drainage control, using structures such as, but not limited to bridges, ditches, cross drains, and ditch relief drains. The drainage control system shall be designed to safely pass the peak runoff from a 10-year, 6-hour precipitation event, or greater event as specified by the Commission;

(2) Drainage pipes and culverts shall be installed as designed, and maintained in a free and operating condition and to prevent or control erosion at inlets and outlets;

(3) Drainage ditches shall be constructed and maintained to prevent uncontrolled drainage over the road surface and embankment;

(4) Culverts shall be installed and maintained to sustain the vertical soil pressure, the passive resistance of the foundation, and the weight of vehicles using the road;

(5) Natural stream channels shall not be altered or relocated without the prior approval of the Commission in accordance with applicable Sections 816.339 through 816.355 [817.509 through 817.524] of this chapter; and

(6) Except as provided in paragraph (c)(2) of this Section, structures for perennial or intermittent stream channel crossings shall be made using bridges, culverts, low-water crossings, or other structures designed, constructed, and maintained using current, prudent engineering practices. The Commission shall ensure that low-water crossings are designed, constructed, and maintained to prevent erosion of the structure or streambed and additional contributions of suspended solids to steamflow.

(e) Surfacing. Primary roads shall be surfaced with material approved by the Commission as being sufficiently durable for the anticipated volume of traffic and the weight and speed of vehicles using the road.

6. *TCMR 816.402 (Surface Mining) and TCMR 817.571 (Underground Mining), Utility Installations.*

At TCMR 816.402 for surface mining operations and TCMR 817.571 for underground mining operations, Texas proposes the following new provision pertaining to utility installations. There is no difference in the language of the surface and underground regulations.

All surface coal mining operations [underground mining activities] shall be conducted in a manner which minimizes damage, destruction, or disruption of services provided by oil, gas, and water wells; oil, gas, and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines which pass over, under, or through the permit area, unless otherwise approved by the owner of those facilities and the Commission.

7. *TCMR 816.403 (Surface Mining) and TCMR 817.572 (Underground Mining), Support Facilities.*

At TCMR 816.403 for surface mining operations and TCMR 817.572 for underground mining operations, Missouri proposes the following new provisions pertaining to support facilities. There is no difference in the language of the surface and underground regulations.

(a) Support facilities shall be operated in accordance with a permit issued for the mine or coal preparation operation to which it is incident or from which its operation results.

(b) In addition to the other provisions of this part, support facilities shall be located, maintained, and used in a manner that:

(1) Prevents or controls erosion and siltation, water pollution, and damage to public or private property; and

(2) to the extent possible using the best technology currently available—

(i) Minimizes damage to fish, wildlife, and related environmental values; and

(ii) Minimizes additional contributions of suspended solids to streamflow or runoff outside the permit area. Any such contributions shall not be in excess of limitations of State or Federal law.

8. *TCMR 815.327, Performance Standards For Coal Exploration.*

Texas proposes to remove the existing language in subsections (c)(1) through (c)(4) and replace it with the following language.

(c) All roads or other transportation facilities used for coal exploration shall comply with the applicable provisions of Sections 816.400 (b) through (f), 816.402, and 816.403 of this chapter.

9. *TCMR 827.651, Coal Processing Plants: Performance Standards.*

1. At TCMR 827.651(b), Texas proposes to change the sections referenced from ''400–.422'' to ''816.400 and 816.401 of this chapter.''

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Texas program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t. on February 16, 1996. The location and time of the hearing will be arranged with those persons requesting the hearing. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the

audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 25, 1996.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 96–1990 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN57–1–7204b; FRL–5334–1]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve Indiana's August 25, 1995, request to ban residential open burning in Clark, Floyd, Lake, and Porter Counties as part of the State's 15 percent Rate of Progress Plan control measures for Volatile Organic Compounds emissions. In the final rules section of this Federal Register, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before March 4, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman, Regulation Development Section, Regulation Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3299.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this Federal Register.

Dated: October 31, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–1844 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IL112–1–6759b; FRL–5331–8]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) proposes to approve Illinois' October 24, 1994, site-specific State Implementation Plan (SIP) revision request establishing RACT requirements for Alumax Incorporated, Morris, Illinois facility's aluminum rolling mills. In the final rules section of this

Federal Register, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before March 4, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this Federal Register.

Dated: October 27, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–1936 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[FL–064–1–7179b; FRL–5305–8]

Approval and Promulgation of Implementation Plans: Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Florida for the purpose of establishing a Federally enforceable state operating permit (FESOP) program. In order to extend the Federal enforceability of Florida's FESOP to hazardous air pollutants (HAP), EPA is also proposing approval of Florida's FESOP regulations pursuant to section 112 of the Clean Air Act as amended in 1990 (CAA). In the Final Rules Section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 4, 1996.

ADDRESSES: Written comments should be addressed to: Gracy R. Danois, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the material submitted by Florida may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400.

FOR FURTHER INFORMATION CONTACT: Gracy R. Danois, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4150. Reference file FL–064–1–7179b.

SUPPLEMENTARY INFORMATION: For additional information, refer to the direct final rule which is published in the rules section of this Federal Register.

Dated: September 20, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–1938 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[MD043-3005b; FRL-5339-3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Prevention of Significant Deterioration: PM–10 Increments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Maryland which amends Code of Maryland Administrative Regulations (COMAR) 26.11.01.01, 26.11.02.10 (C)(9), and 26.11.06.14. The intended effect of this action is to approve an amendment to Maryland's Prevention of Significant Deterioration (PSD) program. This revision makes these regulations consistent with the currently effective version of 40 CFR 52.21, including establishing the maximum increases in ambient particles with an aerodynamic diameter of less than or equal to a nominal 10 micrometers (PM–10) concentration allowed in an area above the baseline concentrations. In the Final Rules section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by March 4, 1996.

ADDRESSES: Written comments on this action should be addressed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841

Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Lisa M. Donahue, (215) 597-2923.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title, ''Approval and Promulgation of Air Quality Implementation Plans; MARYLAND; Prevention of Significant Deterioration: PM–10 Increments'', which is located in the Rules and Regulations Section of this Federal Register.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides.

Authority: 42 U.S.C. 7401-7671q.

Dated: November 3, 1995.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 96–1932 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NC–70–6962b; FRL–5296–1]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On August 15, 1994, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions are the adoption of new air quality rules, amendments to existing air quality rules and repeals of existing air quality rules that were the subject of public hearings held on March 21 and 30, 1994. In the final rules section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 4, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 443, 401 M Street SW., Washington DC 20460

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

North Carolina Department of Environmental, Health, and Natural Resources, Division of Environmental Management, Raleigh, North Carolina 27626-0535.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides, and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is 404/347-3555, ext. 4212.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: August 14, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–1839 Filed 1–31–96; 8:45 am]

BILLING CODE 6050–50–P

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40 CFR Part 52

[NC–75–1–7221b; FRL–5317–6]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 7, 1995, the Forsyth County Environmental Affairs Department, through the North Carolina Department of Environment, Health and Natural Resources, submitted recodifications to the Forsyth County Air Quality Control Ordinance and Technical Code. These recodifications make the Forsyth County Air Quality Control Ordinance and Technical Code more directly comparable to the North Carolina Air Quality Regulations. These recodifications were the subject of a public hearing held on September 20, 1994. In the final rules section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 4, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Scott M. Martin at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 443, 401 M Street SW., Washington DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345

Courtland Street NE., Atlanta, Georgia 30365.

North Carolina Department of Environmental, Health, and Natural Resources, Division of Environmental Management, Raleigh, North Carolina 27626–0535.

FOR FURTHER INFORMATION CONTACT: Mr. Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides, and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4216.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: October 3, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–1925 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NC–77–1–7728b & NC–74–1–7727b; FRL–5325–4]

Approval and Promulgation of Implementation Plans, North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 3, 1995, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions include the adoption of three source-specific volatile organic compound rules; 15A NCAC 2D .0955, Thread Bonding Manufacturing, .0956, Glass Christmas Ornament Manufacturing, and .0957 Commercial Bakeries.

On May 24, 1995, North Carolina submitted additional revisions to their SIP. These revisions delete textile coating, Christmas ornament manufacturing, and bakeries from the list of sources that must follow interim standards, define di-acetone alcohol as a non-photochemically reactive solvent, and place statutory requirements for adoption by reference for referenced ASTM methods into a single rule rather than each individual rule that references ASTM methods. Revisions to 15A NCAC 2D .0902 Applicability; .0907 Compliance Schedules For Sources In Nonattainment Areas; .0910 Alternative Compliance Schedules; .0911 Exception From Compliance Schedules; .0952 Petition For Alternative Controls; .0954 Stage II Vapor Recovery; 1401–.1415; Reasonably Available Control Technology for Sources of Nitrogen Oxides (Nox RACT); .1501–.1504 Transportation Conformity; and .1601–.1603; General Conformity are being addressed in separate Federal Register Notices.

In the final rules section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 4, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 443, 401 M Street SW., Washington DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

North Carolina Department of Environmental, Health, and Natural Resources, Division of Environmental Management, Raleigh, North Carolina 27626–0535.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides, and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4212.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: October 20, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–1842 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[NC–73–1–7225b; NC–77–2–7726b; FRL–5337–5]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the North Carolina State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On August 15, 1994, and May 24, 1995, the State of North Carolina, through the North Carolina Department of Environment, Health and Natural Resources, submitted revisions to the North Carolina State Implementation Plan (SIP). These revisions are the adoption of new air quality rules, amendments to existing air quality rules and repeals of existing air quality rules. In the final rules section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by March 4, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Randy Terry at the EPA Regional Office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine

these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 443, 401 M Street SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

North Carolina Department of Environmental, Health, and Natural Resources, Division of Environmental Management, Raleigh, North Carolina 27626–0535.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Terry, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides, and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, Atlanta, Georgia 30365. The telephone number is 404/347–3555, ext. 4212.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: November 3, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 96–1940 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Parts 52 and 81

[OH60–1–6377b; FRL–5410–2]

Approval and Promulgation of Air Quality Implementation Plans, and Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve the ozone State Implementation Plan (SIP) revision and redesignation requests submitted by the State of Ohio for the purpose of redesignating Franklin, Delaware, and Licking Counties (Columbus area) from nonattainment to attainment for ozone; and revise Ohio's SIP to include a 1990 base-year ozone precursor emissions inventory for the Columbus ozone nonattainment area. In the final rules section of this Federal Register, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. It should be noted, however, that an adverse or critical comment on the direct final approval of the Columbus area redesignation request or maintenance plan will not result in a withdrawl of the direct final approval of the Columbus emission inventory, unless USEPA receives adverse or critical comments on the emission inventory approval, as well. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before March 4, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: William Jones, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6058.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this Federal Register.

Dated: November 30, 1995.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–1934 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 62

RIN 3067–AC40

National Flood Insurance Program; Audit Program Revision

AGENCY: Federal Insurance Administration (FEMA).

ACTION: Proposed rule.

SUMMARY: The Federal Insurance Administration (FIA) proposes to amend its regulations regarding the manner in which its audits are conducted under the National Flood Insurance Program's (NFIP) Write Your Own (WYO) Program. The intent of the proposed regulations is to develop a comprehensive, less burdensome, more efficient audit program. FIA anticipates that these revisions will result in greater economy of resources and new savings to the NFIP public.

DATES: We invite your comments and ask that you submit them no later than March 18, 1996.

ADDRESSES: Please submit written comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street, SW., room 840, Washington, DC 20472, (fax) (202) 646–4536.

FOR FURTHER INFORMATION CONTACT: Roland E. Holland, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3439.

SUPPLEMENTARY INFORMATION: Recently, after reviewing the programs and services provided to the NFIP public, the Federal Insurance Administrator concluded that the services currently being provided could be enhanced and improved by revising the audit procedures. As a result, FIA intends to discontinue the self-audit program, along with the triennial claims and underwriting operations reviews. The ''triennial'' audit will be revised to be conducted on a biennial basis, and expanded to encompass greater claims and underwriting audits that are to be conducted by Certified Public Accountant (CPA) firms, selected by the WYO companies, at the companies' expense. These changes are being made to facilitate improved management control over the audit process. FIA believes these efforts will result in appreciable program savings to both the WYO companies and the FIA.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44

CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Executive Order 12898, Environmental Justice

The socioeconomic conditions relating to this proposed rule were reviewed and a finding was made that no disproportionately high and adverse effect on minority or low income populations result from this proposed rule.

Executive Order 12866, Regulatory Planning and Review

This proposed rule is not a significant regulatory action within the meaning of section 2(f) of E.O. 12866 of September 30, 1983, 58 FR 51735, and has not been reviewed by the Office of Management and Budget (OMB). Nonetheless, this proposed rule adheres to the regulatory principles set forth in E.O. 12866.

Paperwork Reduction Act

In accordance with the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, the collections of information contained in this proposed rule have been submitted to and approved by the Office of Management and Budget. To request additional information or copies of the OMB submissions, contact the FEMA Informations Collections Officer, Muriel B. Anderson, by calling (202) 646–2625 or by writing to FEMA, 500 C Street, SW., Washington, DC 20472. The approved collections of information are:

OMB Number 3067–0169, Write Your Own (WYO) Program—To maintain adequate financial control over Federal funds, the National Flood Insurance Program requires each WYO company to meet the requirements of the WYO Transaction Record Reporting and Processing Plan and to submit monthly financial and statistical reports as required in FEMA regulation 44 CFR Part 62, Appendix B. The number of respondents is estimated at 105. The burden estimates per respondent are as follows: Reconciliation Report, 30 minutes; Biennial Audit Administrative Review Checklist, 1 hour; Monthly Financial and Statistical Reconciliation Reports Certification Statement, 3 minutes; and Monthly Statistical Transaction Reports Certification Statement, 3 minutes.

OMB Number 3067–0229, Mortgage Portfolio Protection Program (MPPP)—Lending institutions, mortgage servicing companies and others servicing mortgage loan portfolios can bring their mortgage loan portfolios into compliance with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973. The number of respondents is estimated at 6,526. The burden estimates per respondent are as follows: 150 hours for WYO companies to set up initial operations under the MPPP; 30 minutes per lender to sign an agreement with a WYO company to notify each mortgagor (3 notices at 10 minutes per notice); and 30 minutes for each mortgagor to ask questions and respond to the notices.

Although the collections of information have been approved by OMB, FEMA continues to solicit comments on (1) whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden of the collections of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Submit comments within 60 days of this notice to the Federal Emergency Management Agency, Attention: Information Collections Management, 500 C Street S.W., room 311, Washington, D.C. 20472.

Executive Order 12612

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 62

Flood insurance.

Accordingly, 44 CFR part 62 is proposed to be amended as follows:

PART 62—SALE OF INSURANCE AND ADJUSTMENT OF CLAIMS

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., 376.

§ 62.23 [Revised]

2. Section 62.23 is revised to read as follows:

§ 62.23 WYO Companies authorized.

(a) Pursuant to section 1345 of the Act, the Administrator may enter into arrangements with individual private sector property insurance companies whereby such companies may offer flood insurance coverage under the Program to eligible applicants for such insurance, including policyholders insured by them under their own property insurance business lines of insurance pursuant to their customary business practices including their usual arrangements with agents and producers, in any State in which such WYO Companies are licensed to engage in the business of property insurance. Arrangements entered into by WYO Companies under this subpart shall be in the form and substance of the standard arrangement, entitled ''Financial Assistance/Subsidy Arrangement'', a copy of which is included in Appendix A of this part and made a part of these regulations.

(b) Any duly licensed insurer so engaged in the Program shall be a WYO Company.

(c) A WYO Company is authorized to arrange for the issuance of flood insurance in any amount within the maximum limits of coverage specified in § 61.6 of this subchapter, as Insurer, to any person qualifying for such coverage under parts 61 and 64 of this subchapter who submits an application to the WYO Company; coverage shall be issued under the Standard Flood Insurance Policy.

(d) A WYO Company issuing flood insurance coverage shall arrange for the adjustment, settlement, payment and defense of all claims arising from policies of flood insurance it issues under the Program, based upon the terms and conditions of the Standard Flood Insurance Policy.

(e) In carrying out its functions under this subpart, a WYO Company shall use its own customary standards, staff and independent contractor resources, as it would in the ordinary and necessary conduct of its own business affairs, subject to the Act and regulations prescribed by the Administrator under the Act.

(f) To facilitate the marketing of flood insurance coverage under the Program to policyholders of WYO Companies, the Administrator will enter into arrangements with such companies whereby the Federal Government will be a guarantor in which the primary relationship between the WYO Company and the Federal Government will be one of a fiduciary nature, i.e., to assure that any taxpayer funds are accounted for and appropriately expended. In furtherance of this end,

the Administrator has established ''A Plan to Maintain Financial Control for Business Written Under the Write Your Own Program'', a copy of which is included in Appendix B of this part and made a part of these regulations.

(g) WYO Companies shall not be agents of the Federal Government and are solely responsible for their obligations to their insureds under any flood insurance policies issued under arrangements entered into with the Administrator.

(h) To facilitate the underwriting of flood insurance coverage by WYO Companies, the following procedures will be used by WYO Companies:

(1) To expedite business growth, the WYO Company will encourage its present property insurance policyholders to purchase flood insurance and to transfer to the WYO Company, at the time of policy renewal, business placed by its producers with the NFIP Bureau and Statistical Agent.

(2) To confirm its underwriting practices to the underwriting rules and rates in effect as to the NFIP, the WYO Company will establish procedures to carry out the NFIP rating system and to provide its policyholders with the same coverage as is afforded under the NFIP.

(3) The WYO Company may follow its customary billing practices to meet the Federal rules on the presentment of premium and net premium deposits to a Letter of Credit bank account authorized by the Administrator and reduction of coverage when an underpayment is discovered.

(4) The WYO Company is expected to meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan. Transactions reported by the WYO Company under the WYO Transaction Record Reporting and Processing Plan will be analyzed by the NIP Servicing Agent. A monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of WYO Company submissions, the disposition of transactions that have not passed systems edits and the reconciliation of the totals generated from transaction reports with those submitted on the WYO Company's reconciliation reports.

(5) If a WYO Company rejects an application from an agent or a producer, the agent or producer should be notified so that the business can be placed through the NFIP Servicing Agent, or another WYO Company.

(6) Flood insurance coverage will be issued by the WYO Company on a separate policy form and will not be added, by endorsement, to the Company's other property insurance forms.

(7) Premium payment plans can be offered by the WYO Company so long as the net premium depository requirements specified under the NFIP/WYO Program accounting procedures are met. A cancellation by the WYO Company for non-payment of premium will not produce a pro rata return of the net premium deposit to the WYO Company.

(8) NFIP business will not be assumed by the WYO Companies at any time other than at renewal time, at which time the insurance producer may submit the business to the WYO Company as new business. However, it is permissible to cancel and rewrite flood policies to obtain concurrent expiration dates with other policies covering the property. Where the insurance agent or producer of record of a flood insurance policy issued by the Administrator has authorized the NFIP, in writing, to release policy information for the conversion of the NFIP coverage to a designated WYO Company represented by the agent or producer of record, in order to facilitate policy issuance and reduce administrative burdens upon the NFIP and WYO Companies and their agents and producers, countersignature requirements in the several States shall not apply.

(i) To facilitate the adjustment of flood insurance claims by WYO Companies, the following procedures will be used by WYO Companies.

(1) Under the terms of the Arrangement set forth at appendix A of this part, WYO Companies will adjust claims in accordance with general Company standards, guided by NFIP Claims manuals. The Arrangement also provides that claim adjustments shall be binding upon the FIA. For example, the entire responsibility for providing a proper adjustment for both combined wind and water claims and flood-alone claims is the responsibility of the WYO Company.

(2) The WYO Company may use its staff adjusters and/or independent adjusters. It is important that the Company's Claims Department verifies the correctness of the coverage interpretations and reasonableness of the payments recommended by the adjusters.

(3) An established loss adjustment Fee Schedule is part of the Arrangement and cannot be changed during an Arrangement year. This is the expense allowance to cover costs of independent or WYO Company adjusters.

(4) the normal catastrophe claims procedure currently operated by a WYO Company should be implemented in the event of a claim catastrophe situation. Flood claims will be handled along with other catastrophe claims.

(5) It will be the WYO Company's responsibility to try to detect fraud (as it does in the case of property insurance) and coordinate its findings with FIA.

(6) Pursuant to the Arrangement, the responsibility of defending claims will be upon the Write Your Own Company and defense costs will be part of the unallocated or allocated claim expense allowance, depending on whether a staff counsel or an outside attorney handles the defense of the matter. Claims in litigation will be reported by WYO Companies to FIA upon joinder of issue and FIA may inquire and be advised of the disposition of such litigation.

(7) The claim reserving procedures of the individual WYO Company can be used.

(8) Regarding the handling of subrogation, if a WYO Company prefers to forego pursuit of subrogation recovery, it may do so by referring the matter, with a complete copy of the claim file, to FIA. Subrogation initiatives may be truncated at any time before suit is commenced (after commencing an action, special arrangement must be made). FIA, after consultation with FEMA's Office of the General Counsel (OGC), will forward the cause of action to OGC or to the NFIP Bureau and Statistical Agent for prosecution. Any funds received will be deposited, less expenses, in the National Flood Insurance Fund.

(9) Special allocated loss adjustment expenses will include such items as: nonstaff attorney fees, engineering fees and special investigation fees over and above normal adjustment practices.

(10) The customary content of claim files will include coverage verification, normal adjuster investigations, including statements where necessary, police reports, building reports and investigations, damage verification and other documentation relevant to the adjustment of claims under the NFIP's and the WYO Company's traditional claim adjustment practices and procedures. The WYO Company's claim examiners and managers will supervise the adjustment of flood insurance claims by staff and independent claims adjusters.

(11) The WYO Company will extend reasonable cooperation to FEMA's Office of the General Counsel on matters pertaining to litigation and subrogation, under paragraph (i)(8) of this section.

(j) To facilitate establishment of financial controls under the WYO Program, the WYO Company will:

(1) Select a Certified Public Accountant (CPA) firm to conduct biennial audits of the financial, claims and underwriting records of the company. These audits shall be performed in accordance with the Government Auditing Standards issued by the Comptroller General of the United States (commonly known as yellow book). FIA further requires that pre-selected policy and claims files the CPA firm is asked to review are in addition to any files that the auditors may select for their sample. A report of the detailed biennial audit conducted will be filed with the FIA which, after a review of the audit report, will convey its determination to the Standards Committee. The CPA firm chosen to conduct the audit is expected to use qualified, skilled persons with the requisite background in property insurance and a knowledge of the NFIP. Persons performing claims audits are expected to possess claims expertise which would allow them to ascertain whether the scope of damage was proper, and if all applicable NFIP policy provisions were properly followed. Persons performing underwriting audits should be able to ascertain if the risk has been properly rated, which would necessitate being aware of special NFIP rating situations, such as elevated buildings.

(2) Meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan and the WYO Accounting Procedures Manual. Transactions reported to the National Flood Insurance Program's (NFIP's) Bureau and Statistical Agent by the WYO Company under the WYO Transaction Record Reporting and Processing Plan and the WYO Accounting Procedures Manual will be analyzed by the Bureau and Statistical Agent and a monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of the WYO Company submissions, the disposition of transactions which do not pass systems edits and the reconciliation of the totals generated from transaction reports with those submitted on WYO Company reconciliation reports.

(3) Cooperate with FEMA's Office of Financial Management on Letter of Credit matters.

(4) Cooperate with FIA in the implementation of a claims reinspection program.

(5) Cooperate with FIA in the verification of risk rating information.

(6) Cooperate with FEMA's Office of the Inspector General on matters pertaining to fraud.

(k) To facilitate the operation of the WYO Program and in order that a WYO Company can use its own customary standards, staff and independent contractor resources, as it would in the ordinary and necessary conduct of its own business affairs, subject to the Act, the Administrator, for good cause shown, may grant exceptions to and waivers of the regulations contained in this title relative to the administration of the NFIP.

(l)(1) WYO Companies may, on a voluntary basis, elect to participate in the Mortgage Portfolio Protection Program (MPPP), under which they can offer, as a last resort, flood insurance at special high rates, sufficient to recover the full cost of this program in recognition of the uncertainty as to the degree of risk a given building presents due to the limited underwriting data required, to properties in a lending institution's mortgage portfolio to achieve compliance with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973. Flood insurance policies under the MPPP may only be issued for those properties that:

(i) Are determined to be located within special flood hazard areas of communities that are participating in the NFIP, and

(ii) Are not covered by a flood insurance policy even after a required series of notices has been given to the property owner (mortgagor) by the lending institution of the requirement for obtaining and maintaining such coverage, but the mortgagor has failed to respond.

(2) WYO Companies participating in the MPPP must provide a detailed implementation package to any lending institution that, on a voluntary basis, chooses to participate in the MPPP to ensure the lending institution has full knowledge of the criteria in that program and must obtain a signed receipt for that package from the lending institution. Participating WYO Companies must also maintain evidence of compliance with paragraph (l)(3) of this section for review during the audits and reviews required by the WYO Financial Control Plan contained in appendix B of this part.

(3) The mortgagor must be protected against the lending institution's arbitrary placing of flood insurance for which the mortgagor will be billed by being sent three notification letters as described in paragraphs (l)(4) through (6) of this section.

(4) The initial notification letter must:

(i) State the requirements of the Flood Disaster Protection Act of 1973, as amended;

(ii) Announce the determination that the mortgagor's property is in an identified special flood hazard area as delineated on the appropriate FEMA map, necessitating flood insurance coverage for the duration of the loan;

(iii) Describe the procedure to follow should the mortgagor wish to challenge the determination;

(iv) Request evidence of a valid flood insurance policy or, if there is none, encourage the mortgagor to promptly obtain a Standard Flood Insurance Policy (SFIP) from a local insurance agent (or WYO Company);

(v) Advise that the premium for an MPPP policy is significantly higher than a conventional SFIP policy and advise as to the option for obtaining less costly flood insurance; and

(vi) Advise that an MPPP policy will be purchased by the lender if evidence of flood insurance coverage is not received by a date certain.

(5) The second notification letter must remind the mortgagor of the previous notice and provide essentially the same information.

(6) The final notification letter must:

(i) Enclose a copy of the flood insurance policy purchased under the MPPP on the mortgage's (insured's) behalf, together with the Declarations Page.

(ii) Advise that the policy was purchased because of the failure to respond to the previous notices, and

(iii) Remind the insured that similar coverage may be available at significantly lower cost and advise that the policy can be cancelled at any time during the policy year and a pro rata refund provided for the unearned portion of the premium in the event the insured purchases another policy that is acceptable to satisfy the requirements of the 1973 Act. ''(Approved by the Office of Management and Budget under OMB control number 3067–0229.)''

Appendix B to Part 62 [Revised]

3. Appendix B to Part 62—National Flood Insurance Program, is proposed to be revised to read as follows:

Appendix B to Part 62—National Flood Insurance Program

A Plan To Maintain Financial Control for Business Written Under the Write Your Own Program

Under the Write Your Own (WYO) Program, the Federal Insurance Administrator (Administrator) may enter into arrangements with individual private sector insurance companies that are licensed to engage in the business of property insurance, whereby these companies may offer flood insurance coverage to eligible property owners using their customary business practices. To facilitate the marketing of flood

insurance coverage, the Federal Government will be a guarantor of flood insurance coverage for WYO Company policies issued under the WYO Arrangement. To ensure that any taxpayer funds are accounted for and appropriately expended, the Federal Insurance Administrator (FIA) and WYO Companies will implement this Financial Control Plan. Any departures from the requirements of this Plan must be approved by the Administrator. The authority for the WYO Program is contained in § 1345 of the National Flood Insurance Act of 1968, 42 U.S.C. 4081, and 44 CFR parts 61 and 62, §§ 61.13 and 62.23. The WYO Financial Assistance/Subsidy Arrangement (Arrangement) which is included in appendix A of this part is hereby made a part of this Financial Control Plan.

WYO Companies are subject to audit, examination, and regulatory controls of the various states. Additionally, insurance company operating departments are customarily subject to examinations and audits performed by Company internal audit (and/or quality control) departments and independent CPA firms. It is intended that this Plan use to the extent possible, the findings of these examinations and audits as they pertain to business written under the WYO Program (Parts 3 and 4).

The WYO Financial Control Plan contains several checks and balances that can, if properly implemented by the WYO Company, significantly reduce the need for extensive on-site reviews of Company files by the FIA staff or their designee. Furthermore, we believe that this process is consistent with customary reinsurance practices and avoids duplication of examinations performed under the auspices of individual State Insurance Departments, NAIC Zone examinations, and independent CPA firms.

The WYO Financial Control Plan requires the WYO Company to meet the minimum requirements established by the Standards Committee. The Standards Committee consists of four (4) members from FIA, one (1) member from the Federal Emergency Management Agency's (FEMA's) Office of Financial Management, one (1) member designated by the Administrator who is not directly involved in the WYO Program, and one (1) member from each of six (6) designated WYO Companies, pools or other entities.

The WYO Financial Control Plan must require the WYO Company to:

1. Have a biennial audit of the flood insurance financial statements and claims and underwriting activity conducted by an independent accounting firm at the Company's expense to ensure that the financial data reported to FIA accurately represents the flood insurance activities of the Company. Require that the CPA firm's audit be performed in accordance with GAO yellow book requirements. Require that the auditors conduct their own review sample, even if pre-selected policy and claims files are given to them for review.

2. Meet the recording and reporting requirements of the WYO Transaction Record Reporting and Processing Plan. Transactions reported to the National Flood Insurance Program's (NFIP's) Bureau and Statistical Agent by the WYO Company under the WYO Transaction Record Reporting and Processing Plan will be analyzed by the Bureau and Statistical Agent and a monthly report will be submitted to the WYO Company and the FIA. The analysis will cover the timeliness of the WYO Company's submissions, the disposition of transactions that do not pass systems edits, and the reconciliation of the total generated from transaction reports with those submitted on the WYO Company's reports (part 1).

3. Cooperate with FEMA's Office of Financial Management on Letter of Credit matters.

4. Cooperate with FIA in the implementation of a claims reinspection program (part 2).

5. Cooperate with FIA in the verification of risk rating information.

6. Cooperate with FEMA's Office of the Inspector General on matters pertaining to fraud.

The Standards Committee will review and make a recommendation to the Administrator concerning any adverse action arising from the implementation of the Financial Control Plan. Adverse actions include, but are not limited to the FIA Operations Division's recommendations not to renew a particular Company's WYO arrangement.

This Plan includes the following guidelines:

Part 1—Transaction Record Reporting and Processing Plan Reconciliation Procedures
Part 2—Claims Reinspection Program
Part 3—Financial Audits, Underwriting Audits, Claims Audits, Audits For Cause, and State Insurance Department Audits
Part 4—Reports Certifications
Part 5—WYO Financial Assistance/Subsidy Arrangement (Incorporated by Reference)
Part 6—Transaction Record Reporting and Processing Plan (Incorporated by Reference)
Part 7—Write Your Own (WYO) Accounting Procedures Manual (Incorporated by Reference)

Part 1—Transaction Record Reporting and Processing Plan Reconciliation Procedures

Transaction Record Reporting and Processing Plan Reconciliation Objectives

The objectives are: To reconcile transaction detail with monthly financial statements submitted by the WYO Companies; to assess the quality and timeliness of submitted data; and to provide for the identification and resolution of discrepancies in the data. The reliance on computer processing to perform the review of transaction and financial data will help minimize the necessity for on-site audits of WYO Companies. Reconciliation of the statistical reports submitted will be performed by the WYO Companies and independently by the NFIP Bureau and Statistical Agent.

The Review of monthly financial statements and transaction level detail will involve five areas:

A. Financial control;
B. Quality control (audit trails);
C. Quality review of submitted data;
D. Policy rating;
E. Timeliness of reporting; and
F. Monthly reports.

A. Financial Control

1. WYO Companies are required to submit a reconciliation report (Exhibit ''A'') with the submission of transaction level detail. This report will reconcile the transaction records data to the financial report, explaining any discrepancies.

2. WYO Companies are required to submit, on a form approved by the Administrator, a tape transmittal document with the submission of the statistical tape containing transaction detail. This will be used to validate record counts and dollar amounts.

3. The NFIP will review, at a minimum, the categories on the attached format and produce a similar report reconciling the transaction data to the monthly financial statement submitted by each WYO Company.

4. To facilitate financial reconciliation, transaction records which do not pass various edits employed by the NEIP to review the quality of submitted data will be so identified, but still maintain whenever possible until the error is corrected by the company in order to reconcile all financial data submitted to the NFIP.

B. Quality Control

Transaction level detail will be maintained in policy and claim history files for record-keeping and audit purposes.

C. Quality Review of Submitted Data

1. Transaction records will be edited for correct format and values.

2. Relational edits will be performed on individual transactions as well as between policy and claim transactions submitted against those policies.

3. Record validation will be performed to check that the transaction type is allowable for the type of policy or claim indicated.

4. Errors will be categorized as critical or non-critical. The rate of critical errors in the submission of statistical data will be the basis by which company performance is reported to the Standards Committee. Critical errors include those made in required data elements. Required data elements:

a. Identify the policyholder, the policy, the loss, and the property location;

b. Provide information necessary to rate the policy;

c. Provide information used in financial control; and

d. Provide information used for actuarial review of NFIP experience.

5. Non-critical errors are those made in data elements reported by the WYO Companies at their option.

D. Policy Rating

1. The rating will be validated by the NFIP for all policies for which the following transactions have been submitted:

a. New Business;

b. Renewals;

c. Endorsements involving type A transaction records; and

d. Corrections of type A transaction records previously submitted for premium transactions.

2. Incorrect rating will be considered a critical error.

E. Timeliness of Reporting

1. WYO Companies will be expected to submit monthly statistical and financial

reports within thirty days of the end of the month of record.

2. The NFIP will provide reports based on review of submitted data within thirty days after the due date or the first processing cycle subsequent to the receipt of WYO Company submissions, whichever is later.

F. Monthly Reports

1. Reports for each WYO Company's data submission will be sent to the respective WYO Company and the FIA explaining any discrepancies found by the NFIP review.

2. Reports to WYO Companies. Transaction records that fail to pass the quality review or policy rating edits will be reported to the appropriate Company in transaction detail with error codes, classification of errors as either critical or non-critical and any codes used by the Company to identify the source of the transaction data.

3. Report to WYO Companies and the FIA:

a. Summary statistics will be generated for each monthly submission of transaction data. These will include:

i. Absolute numbers of transactions read and transactions rejected by transaction type; and

ii. Dollar amounts associated with transactions read and transactions rejected.

b. Summary statistics for all policy and claim records submitted to date (which may each be the result of multiple transactions) will be generated, separately for critical and non-critical errors. These will include:

i. Absolute number of policy and claim records on file and those containing errors; and

ii. Relative values for the number of records containing critical errors.

c. Control totals will be generated for tapes submitted to and processed by the NFIP. This front-end balancing procedure will include:

i. Numbers of records submitted according to the NFIP compared with numbers of records submitted according to the WYO Company transmittal document; and

ii. Dollar amounts submitted according to the NFIP compared with dollar amounts submitted according to the WYO Company transmittal document.

d. If there is any discrepancy between the NFIP reading of dollar amounts from the tape and the WYO Company tape transmittal document, then the monthly statistical tape submission will be rejected and returned to the Company. The rejected tape must be corrected and resubmitted by the next monthly submission due date.

e. In cases where the NFIP reconciliation of transaction level detail with the financial statements does not agree with the reconciliation report submitted by the WYO Company, a separate report will be generated and transmitted to the Company for resolution and to the FIA.

Reporting of Company Rating to the Standards Committee and the Administrator

A. Satisfactory Rating

An annual end of the year report will be submitted to convey the satisfactory rating of WYO Companies' submission of transaction data and the reconciliation of this data with financial reports.

B. Unsatisfactory Rating

The report of an unsatisfactory rating will be submitted as soon as errors and problems reach critical threshold levels. This rating will be based on: Continuing problems in reconciling transaction data with financial reports; statistics on the percentage of transactions submitted with critical errors; the percentage of policy and claim records on file that contain critical errors; and late submission of statistical and financial reports.

Exhibit ''A''—WYO Statistical Tape Transmittal Document

Date Sent: _____

WYOPrefix Code _____ _____

WYO Company Name: _____

Address: _____

_____

Reel Number (S) of Enclosed Tapes: _____

_____

Density _____ LRECL _____

Blocksize _____

File Name (DSN) _____

Contact Person _____

Contact Number _____

IBU Number _____ (WYO Use Only

Monthly Reconciliation—Net Written Premiums

Company name _____

Month/year ending _____

Co. NAIC No _____

Date submitted _____

Preparer's name _____

Telephone No _____

Monthly financial report	Monthly statistical transactions report		
	Trans. code	Record count	Premium amount
Net Written premiums	$		
(Income statement=Line 100)	11	.....	$
	15	.....	.....
	17	.....	.....
Unprocessed statistical:			
(+) Prior month's	20	.....	.....
(−) Current month's	23	.....	.....
Other—Explain:			
(+) Current month's	26	.....	(−)
(−) Prior month's	29	.....	(−)
	14 and 81	.....	(+)
Total	Total: Add 11 Through 23 less 26 and 29		
Comments:			

Monthly Reconciliation—Losses

Company name _____

Month/year ending _____

Co. NAIC No _____

Date submitted _____

	Trans. code	Record count	Loss/paid recoveries
100 Net paid losses			
(Income statement line 115)			
Unprocessed statistical:			
	31	.....	$
140 (+) Prior month's	34	.....	.....
	37	.....	.....
150 (−) Current month	40	.....	.....

	Trans. code	Record count	Loss/paid recoveries
	43	.....	.....
160 Salvage not to be reported by transaction (explain)			
170 Other—Explain	46 and 61	.....	.....
	49	.....	.....
	64	.....	.....
	84 amd 87	.....	.....
	52 Recovery	.....	.....
	Salvage	.....	.....
	Subrogation	.....	.....
	67 Recovery	.....	.....
	Salvage	.....	.....
	Subrogation	.....	.....
Total: (Sum of Lines 100, 140, 160, and 170 less 150)	Total: (Add 31, 34, 40 through 64 less 52 and 67)	.....	.....
Comments:			

Monthly Reconciliation—Special Allocated LAE

Company name _____

Month/year ending _____

Co. NAIC No _____

Date submitted _____

Monthly financial report	Monthly statistical transaction report		
	Trans. code	Record count	Amounts
Special allocated loss adjustment expenses (Other loss and LAE Calc.—Line 655)			
	71	.....	$
	74	.....	.....
Unprocessed statistical:			
(+) Prior Month		.....	.....
(−) Current Month		.....	.....
Other—Explain:			
(1)		.....	.....
(2)		.....	.....
Total:	Total:	.....	.....
Comments:			

Monthly Reconciliation—Net Policy Service Fees

Company name _____

Month/year ending _____

Co. NAIC No _____

Date submitted _____

Monthly financial report	Monthly statistical transaction report		
		Record count	Fee amount
Net Policy Service Fees $_____ (Income Statement—Line 170)			
Unprocessed statistical:			
(+) Prior Month's _____.			
(−) Current Month's _____.			
Other—Explain:			
(1) _____.			
(2) _____.			
Total _____	Total _____.		
Comments:			

(Approved by the Office of Management and Budget under OMB control number 3067–0169.)

Part 2—Claims Reinspection Program

WYO—NFIP Claims Reinspection Program

To keep WYO–NFIP Claims Management informed, to assist in the overall claims operation, and to provide necessary assurances and documentation for dealing with GAO, Congressional Oversight Committees, and the public, the FIA and WYO Companies have established a Claims Reinspection Program.

The Program is comprised of the following major elements:

A. All files are subject to reinspection.

B. Files for reinspection may be randomly selected by flood event, or size of loss, or class of business, as determined by WYO–NFIP Claims Management.

C. WYO–NFIP Claims Management will utilize a binomial table to define sample size for reinspections prior to payment. A larger sample may be used depending upon error ratio.

D. An agreed upon sample of closed files, by event, will be subjected to reinspection as well.

E. A WYO representative will conduct the reinspection, accompanied by an NFIP General Adjuster.

F. A joint, single report will be issued by the WYO Company representative and the NFIP General Adjuster.

G. Copies of reinspection reports will be forwarded to the Claims Management of both the WYO Company and the NFIP.

Part 3—Financial Audits, Underwriting Audits, Claims Audits, Audits for Cause, and State Insurance Department Audits

A. Biennial Financial Audits

1. Objectives of WYO Biennial Financial Audit. The biennial financial audit is intended to provide the Federal Emergency Management Agency with independent assessment of the quality of financial controls over activities relating to the Company's participation in the National Flood Insurance Program as well as the integrity of the financial data reported to FEMA.

a. Participating WYO companies are responsible for selecting and funding independent Certified Public Accounting firms to conduct the biennial audits. Such costs are considered part of the normal administrative cost of operating the WYO program and as such are included in the WYO expense allowance.

b. The WYO Company's representative will be notified in writing to arrange for a biennial audit. This notice should provide the WYO Company at least 120 days to prepare for the biennial audit.

c. It is also intended that the biennial audit will reduce if not eliminate the need for FEMA auditors or their designees to conduct on-site visits to WYO companies in their review of financial activity. However, the requirement may still exist for such visits to occur as determined by the auditors. The CPA firm's audit shall be performed in accordance with GAO yellow book requirements. Further, the CPA firm is required to select its own sample, even though FIA may provide them with pre-selected policy and claim files for review. In addition, nothing in this section should be construed as limiting the ability of the General Accounting Office or FEMA's Office of Inspector General to review the activities of the WYO Program.

d. The purpose of the biennial audit is to provide opinion on the fairness of the financial statements, the adequacy of internal controls, and the extent of compliance with laws and regulations.

B. Audits for Cause

In accordance with the terms of the Arrangement, the Administrator, on his/her own initiative or upon recommendation of the WYO Standards Committee or the FEMA Inspector General, may conduct for-cause audits of participating companies. The following criteria, in combination or independently may constitute the basis for initiation of such an audit.

1. Underwriting

a. Excessively high frequency of errors in underwriting:

i. Issuing policies for ineligible risks.

ii. Issuing policies in ineligible communities.

iii. Consistent premium rating errors.

iv. Missing or insufficient documentation for submit for rate policies.

v. Other patterns of consistent errors.

b. Abnormally high rate of policy cancellations or non-renewals.

c. Policies not processed in a timely fashion.

d. Duplication of policy coverage noted.

e. Problems with Rollover from National Flood Insurance Program (NFIP) to WYO (duplication of coverage, timeliness of changeover).

f. Relational type edits indicate an unusually high or low premium amount per policy for the geographical area.

g. Biennial audit results indicate unusual volume of errors in underwriting.

2. Claims

a. Reinspection indicates consistent patterns of:

i. Losses being paid when not covered.

ii. Statistical information being reported on original loss adjustment found to be incorrect on reinspection.

iii. Salvage/subrogation not being adequately addressed.

iv. Consistent overpayment of claims.

b. Unusually high count of erroneous assignments and/or claims closed without payment (CWP). (WYO Company is paid a flat fee for CWP cases where little or no work is done—risk is fraudulent CWP cases).

c. Unusually low count of CWP. (May indicate inadequate follow-up of claims submitted).

d. Average claim payments which significantly exceed the average for the Program as a whole.

e. Lack of (adequate) documentation for paid claims.

f. Claims not processed in a timely fashion.

g. Consistent failure of WYO Company to receive authorization for special allocated loss adjustment expenses prior to incurring them.

h. High submission of Special Allocated Loss Adjustment Expenses (SALAE).

i. Consistently high policyholder complaint level.

j. Low/high count of salvage/subrogation.

k. Biennial audit indicates significant problems.

3. Financial Reporting/Accounting

a. Consistently high reconciliation variations and/or errors in statistical information.

b. Financial and/or statistical information not received in a timely fashion.

c. Letter of Credit violations are found.

d. WYO Company is not depositing funds to the Restricted Account in a timely manner, or funds are not being transferred through the automated clearinghouse on a timely basis.

e. Premium suspense is consistently significant, older than 60 days, and/or cannot be detailed sufficiently.

f. Large/unusual balance in Cash-Other (Receivable and/or Payable).

g. Large, unexplained differences in cash reconciliation.

h. Large/unusual balances or variations between months noted for key reported financial data.

i. Financial statement to statistical data reconciliation sheets improperly completed indicating proper review of information is not being performed prior to signing certification statement.

j. Repeated failure to respond fully in a timely manner to questions raised by FIA or its servicing agent concerning monthly financial reporting.

k. Biennial audit indicates significant problems.

C. Underwriting Audit

1. Samples of new business policies, renewals, endorsements and cancellations will be provided by the FIA with the biennial audit instructions, including samples of the Mortgage Portfolio Protection business, where applicable. The audit is to be conducted in accordance with GAO yellow book requirements. The CPA firm may supplement with its own sample of risks which were in-force during all or part of the Arrangement Year under audit for detail testing.

2. Underwriting Audit Outline.

a. Review of the Underwriting Department's responsibilities, authorities and composition.

b. Personal interviews with management and key clerical personnel to determine current processing activities, planned changes and problems.

c. Administrative review to verify compliance with company procedures.

d. Thorough examination of a random sample of underwriting files to measure the quality of work. The CPA firm is expected to provide a representative sample of its review to substantiate its opinion and findings. At a minimum, the files should be reviewed to verify the following:

i. Policies are issued for eligible risks;

ii. Rates are correct and consistent with the amount of insurance requested on the application.

iii. Waiting period for new business is consistent with government regulations;

iv. Elevation certification or difference is correctly shown on application;

v. The coverage does not include more than one building and/or its contents per policy;

vi. No binder is effective unless issued with the authorization of FIA;

vii. The FIRM zone shown on the application is applicable to the community in which the property is located;

viii. Community shown on application is eligible to purchase insurance under the NFIP;

ix. Information on type of building, etc., is fully complete;

x. Applicable deductibles are recorded;

xi. A new, fully completed application or a photocopy of the most recent application, or similar documentation, with the appropriate updates to reflect current information is on file for each risk, including those formerly written by the NFIP Servicing Facility;

xii. If any files to be audited are unavailable, determine the reason for the absence.

e. Endorsement Processing.

1. Complete tasks as applicable.

2. Review requests for additional coverage to ensure that they are subject to the waiting period rule.

3. Review controls established to ensure that no risk is insured under endorsement provisions that are not acceptable as a new business risk (i.e., a property located in a suspended community).

f. Cancellation Processing. Verify controls to ensure that one of the necessary reasons for cancellation exists and that the transaction is accompanied by proper documentation.

g. Renewal Processing. Determine controls to ensure that all necessary information needed to complete the transaction is provided.

h. Expired Policies. Determine controls to ensure that each step is carried out at the proper time.

i. Observance of Waiting Period. Establish procedures to document, as a matter of WYO Company business record and in each transaction involving a new application, renewal, and endorsement, that any applicable effective date and premium receipt rules have been observed (44 CFR 61.11). Documentation reasonably suitable for the purpose includes retention of postmarked envelopes (for three (3) years) from date, date-stamping and retention (via hard copy or microfilm process) of application, renewal and endorsement documents and checks received in payment of premium; computer input of document and premium receipt transactions and retention of such records in the computer system; and other reasonable insurer methods of verifying transactions involving requests for coverage and receipts of premium.

D. Claims Audit Outline

1. Review of the Claims Department's responsibilities, authorities, and composition.

2. Personal interviews with management and key clerical personnel to determine current processing activities, planned changes and problems.

3. Administrative review to verify compliance with company procedures.

4. Thorough examination of a random sample of claims files which may be provided by FIA to measure the quality of work. At a minimum, the files should be reviewed to verify the following:

a. Verify controls to ensure that a file is set up for each Notice of Loss received.

b. Review adjuster reports to determine whether they contain adequate evidence to substantiate the payment or denial of claims, including amount of losses claimed, any salvage proceeds, depreciation and potential subrogation.

c. Ascertain that building and contents allocations are correct.

d. Determine whether the file contains evidence identifying subrogation possibilities.

e. Verify that partial payments were properly considered in processing the final draft or check.

f. Verify that the loss payees are listed correctly (consider insured and mortgagee).

g. Verify that the total amount of the drafts or checks is within the policy limits.

h. Ascertain the relevance and validity of the criteria used by the carrier to judge effectiveness of its claims servicing operation.

i. Confirm that when information is received from an independent adjuster, the examiner either acts promptly to give proper feedback with instructions or takes action to pay or deny the loss.

j. Determine whether the Claims Department is using an ''impression of risk'' program in reporting misrated policies, etc.

k. Where attempts at fraud occur, verify that these instances are being reported to FIA for referral to the FEMA Inspector General's office.

l. If any files to be audited are unavailable, determine the reason for their absence. In undertaking this portion of the biennial audit, the Administrative Review Checklist (Exhibit B) below should be utilized.

Exhibit ''B''—Administrative Review Checklist

Policy #
Insured's name:
State:
Date of loss:
Date paid:
Date reported:
Amt. of loss: $
Bldg. $
Contents $
Adjusting firm:
Examiner's name:
Comments

	Yes	No	N/A
1. Investigation and Adjustments			
A. Application of Coverage			
(1) Insurable interest?	[ ]	[ ]	[ ]
(2) Is loss from the flood peril?	[ ]	[ ]	[ ]
(3) Did loss occur within the policy term?	[ ]	[ ]	[ ]
(4) Does location and description of risk coincide with policy information?	[ ]	[ ]	[ ]
(5) Were proper deductibles applied?	[ ]	[ ]	[ ]
(6) Other insurance considered?	[ ]	[ ]	[ ]
(7) Other losses?	[ ]	[ ]	[ ]
b. Application of Sound Adjusting Practices			
(1) Was adjuster's report accurate/complete?	[ ]	[ ]	[ ]
(2) Was an attorney used in the settlement?	[ ]	[ ]	[ ]
(3) Was a technical expert used in the settlement?	[ ]	[ ]	[ ]
c. Documentation			
(1) Are damages clearly identified?	[ ]	[ ]	[ ]
(2) Are damages flood related?	[ ]	[ ]	[ ]
(3) Are damages clearly and completely itemized and documented by the adjuster?	[ ]	[ ]	[ ]
(4) Was depreciation considered?	[ ]	[ ]	[ ]
(5) Has subrogation been considered?	[ ]	[ ]	[ ]
(6) Has salvage been properly handled?	[ ]	[ ]	[ ]
(7) Was salvage timely?	[ ]	[ ]	[ ]
2. Supervision			
a. Assignments			
(1) Are assignments made promptly?	[ ]	[ ]	[ ]
(2) Is insured contacted promptly?	[ ]	[ ]	[ ]
b. Reserves			
(1) Are initial reserves indicated on the first report?	[ ]	[ ]	[ ]
(2) Are they adequate?	[ ]	[ ]	[ ]
(3) Does final settlement compare favorably with last reserve established?	[ ]	[ ]	[ ]
c. Diary Control			
(1) Automatic?	[ ]	[ ]	[ ]
(2) Timely?	[ ]	[ ]	[ ]
(3) Is file reviewed at diary date with examiner's comments?	[ ]	[ ]	[ ]
d. Examiner Evaluation and Settlement Performances			
(1) Is examiner directing adjuster when needed?	[ ]	[ ]	[ ]
(2) Are files documented?	[ ]	[ ]	[ ]
(3) Is adequate control maintained over in-house adjuster?	[ ]	[ ]	[ ]
(4) Is adequate control maintained over outside adjuster?	[ ]	[ ]	[ ]

	Yes	No	N/A
e. Salvage and Subrogation			
(1) Is salvage evaluated by salvors?	[ ]	[ ]	[ ]
(2) Is salvage disposed of promptly?	[ ]	[ ]	[ ]
(3) Are salvage returns adequate?	[ ]	[ ]	[ ]
(4) Is potential subrogation being promptly and properly investigated?	[ ]	[ ]	[ ]
(5) Are proper subrogation forms used?	[ ]	[ ]	[ ]
(6) Are subrogation and salvage files properly opened, diaried, and referred (if appropriate)?	[ ]	[ ]	[ ]
(7) Are recovery funds for subrogation and salvage being properly handled?	[ ]	[ ]	[ ]
f. Suits			
(1) Are suits properly identified?	[ ]	[ ]	[ ]
(2) Are suits being properly evaluated?	[ ]	[ ]	[ ]
(3) Are suits being referred to attorneys promptly?	[ ]	[ ]	[ ]
(4) Are attorneys being advised as to handling settlement or compromise?	[ ]	[ ]	[ ]
(5) Are suits being properly controlled?	[ ]	[ ]	[ ]
(6) Are suits files properly diaried?	[ ]	[ ]	[ ]
(7)–(8) [Reserved]	[ ]	[ ]	[ ]
g. Other			
(1) Was there other coverage by the WYO Company?	[ ]	[ ]	[ ]
(2) Were damages correctly apportioned?	[ ]	[ ]	[ ]
(3) Was a solo adjuster used?	[ ]	[ ]	[ ]
(4) Were there prior flood claims?	[ ]	[ ]	[ ]
(5) Were prior damages repaired?	[ ]	[ ]	[ ]
(6) Were prior claim files reviewed?	[ ]	[ ]	[ ]
(7) Was a congressional complaint letter in file?	[ ]	[ ]	[ ]
(8) Was it responded to promptly?	[ ]	[ ]	[ ]
(9) Is the statistical reporting correction file being properly managed?	[ ]	[ ]	[ ]

E. State Insurance—Department Examination

1. It is expected that audits of WYO Companies by independent accountants and/or state insurance departments, aside from those conducted by the FIA or its designee, will include flood insurance activity. When such audits occur, a financial officer for the WYO Company will notify the FIA, identifying the auditing entity and providing a brief statement of the overall conclusions that relate to flood insurance and the insurer's financial condition, when available. In the case of an audit in progress, a brief statement on the scope of the audit should be provided to the FIA. A checklist will be utilized for this reporting and will be provided to WYO Companies by the FIA.

2. The WYO Companies will maintain on file the reports resulting from audits, subject to on-site inspection by the FIA or its designee. At the FIA's request, the WYO Company will submit a copy of the auditor's opinion, should one be available, summarizing the audit conclusion.

''(Approved by the Office of Management and Budget under OMB control number 3067–0169)''

Part 4—Reports Certifications

A. Certification Statement for Monthly Financial and Statistical Reconciliation Reports

I have reviewed the accompanying financial and statistical reconciliation reports of XYZ Company as of _____. All information included in these statements is the representation of the XYZ Company.

Based on my review (with the exception of the matter(s) described in the following paragraphs, if applicable), I certify that I am not aware of any material modifications that should be made to the accompanying reports.

Signed _____

(Responsible Financial Officer)

Date _____

B. Certification Statement for Monthly Statistical Transaction Report

I have reviewed the accompanying statistical transaction report control totals in conjunction with appropriate statistical reconciliation reports. All information included in these reports is the representation of the XYZ Company.

''(Approved by the Office of Management and Budget under OMB control number 3067–0169.)''

Signed _____

(Responsible Reporting Officer)

Date _____

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Dated: January 25, 1996.

Elaine A. McReynolds,

Administrator, Federal Insurance Administration.

[FR Doc. 96–2089 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–05–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 20, 61, and 69

[CC Docket Nos. 95–185 and 94–54, FCC 95–505]

Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers; Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is issuing this Notice of Proposed Rulemaking seeking comment on possible changes in the regulatory treatment of interconnection compensation arrangements between LECs and CMRS providers and related issues. The Notice tentatively concludes that in order to ensure the continued development of wireless services as a potential competitor to LEC services, the Commission should move expeditiously to adopt interim policies governing the rates charged for LEC–CMRS interconnection. The Notice further tentatively concludes that, at least for an interim period, interconnection rates for local switching facilities and connections to end users should be priced on a ''bill and keep'' basis (*i.e.*, both the LEC and the CMRS provider charge a rate of zero for the termination of traffic), and that rates for dedicated transmission facilities connecting LEC and CMRS networks should be set based on existing access charges for similar transmission facilities. The Notice seeks comment on these tentative conclusions and on a number of alternative pricing options for LEC–CMRS interconnection arrangements. The Notice tentatively concludes that information about interconnection compensation arrangements should be made publicly available, and seeks comment on what method to use to achieve this objective, such as tariffing, public disclosure, or some other approach. The Notice seeks comment on how to implement both interim and permanent interconnection policies (*i.e.*, a non-binding model, or mandatory general or specific federal requirements), and tentatively concludes that the Commission has authority to adopt these approaches.

The Notice also proposes compensation arrangements that should apply to interstate, interexchange traffic traversing interconnections between LECs and CMRS providers, which typically involve an interexchange carrier (IXC).

DATES: Comments are due on or before February 26, 1996 and Reply comments are due on or before March 12, 1996.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW, Room 222, Washington, DC 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, NW, Room 544, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, NW, Suite 140, Washington, DC 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, NW, Room 239, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David Sieradzki at (202) 418–1576 or Kathleen Franco at (202) 418–1932, Common Carrier Bureau, Policy and Program Planning Division.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted December 15, 1995 and released January 11, 1996 (FCC–95–505). The full text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW, Washington, DC. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Notices/fcc95505.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M St., NW, Suite 140, Washington, DC 20037.

Synopsis of Notice of Proposed Rulemaking

I. Introduction

A. Summary

1. In this Notice, the Commission continues its examination of whether our policies related to interconnection between commercial mobile radio service (CMRS) providers and local exchange carriers (LECs) are sufficient to advance the public interest. We currently require LECs to offer interconnection to CMRS providers on reasonable terms and conditions, and to do so under the principle of mutual compensation. We have not, however, set specific limits on the price of such interconnection, nor have we required that interconnection agreements be filed with regulatory authorities or that interconnection be provided pursuant to tariff.

2. We are concerned that existing general interconnection policies may not do enough to encourage the development of CMRS, especially in competition with LEC-provided wireline service. LECs unquestionably still possess substantial market power in the provision of local telecommunications services. If commercial mobile radio services, such as broadband personal communications services (PCS), cellular telephone services, satellite telephony, and interconnected specialized mobile radio (SMR) services, are to begin to compete directly against LEC wireline services, it is important that the prices, terms, and conditions of interconnection arrangements not serve to buttress LEC market power against erosion by competition.

3. This Notice therefore considers the policy issues involved in establishing compensation arrangements for LEC–CMRS interconnection. We tentatively conclude that in order to ensure the continued development of wireless services as a potential competitor to LEC services, we should move expeditiously to adopt interim policies governing the rates charged for LEC–CMRS interconnection. We further tentatively conclude that, at least for an interim period, interconnection rates for local switching facilities and connections to end users should be priced on a ''bill and keep'' basis (*i.e.*, both the LEC and the CMRS provider charge a rate of zero for the termination of traffic), and that rates for dedicated transmission facilities connecting LEC and CMRS networks should be set based on existing access charges for similar transmission facilities. We seek comment on these tentative conclusions and on a number of alternative pricing options for LEC–CMRS interconnection arrangements. We also tentatively conclude that information about interconnection compensation arrangements should be made publicly available, and seek comment on what method to use to achieve this objective, such as tariffing, public disclosure, or some other approach. We also seek comment on how we should implement both interim and permanent interconnection policies (*i.e.*, a non-binding model, or mandatory general or specific federal requirements), and we tentatively conclude that we have authority to adopt these approaches. In addition, we propose compensation arrangements that should apply to interstate, interexchange traffic traversing interconnections between LECs and CMRS providers, which typically involve an interexchange carrier (IXC).

B. Overview

1. Goals. 4. In developing policies regarding LEC–CMRS interconnection, our overriding goal is to maximize the benefits of telecommunications for the American consumer and for American society as a whole. As with other areas of common carrier policy, we adopt policies that are intended to create or replicate market-based incentives and prices for both suppliers and consumers. By relying on market-based incentives and prices, where possible, and replicating them, where necessary, our policies have sought to ensure the availability to consumers of goods and services at the lowest overall cost. With the most efficient firms producing goods and services at the lowest cost, consumers benefit from lower prices. With consumers receiving cost-based pricing signals, they purchase communications goods and services only when they receive value greater than or equal to the cost of producing them. In general, reasonable and non-discriminatory rates should give consumers incentives to purchase the combination of services that they most value. As a matter of long-term policy, functionally equivalent services—including services related to network interconnection—should be available to all classes of consumers at the same prices, unless there are cost differences or policy considerations that justify different rates. In addition, these policies, over time, should ensure an efficient level of innovation in terms of the development of new services and the deployment of new technology, as well as the efficient entry of new firms. Service providers should make optimal levels of investments in developing new technologies and new services, and consumers should receive the maximum benefit from their purchases of telecommunications services.

5. Our policies also have sought to ensure and advance universal basic telephone service. For individual households, being connected to telecommunications networks—whether wireline LEC networks or wireless CMRS networks—facilitates access to emergency services, employment and educational opportunities, and social interaction. We recognize that not all the societal benefits accrue to the

individual being connected with the network. Thus, we have pursued our mandate under the Communications Act by adopting specific programs designed to advance universal service in areas and for individuals where special needs exist.

6. Our primary means for achieving these public interest goals has been competition. Competition drives prices toward cost: In a competitive market, rival service providers will have strong incentives to reduce their prices to attract customers until prices approach their costs. The cost-based prices achieved in competitive markets ensure optimal utilization of the network by consumers and give service providers accurate information regarding the benefits and costs of introducing new services and incentives for investing in technological innovations. In addition, competition gives producers strong incentives to stimulate demand and reduce costs. By forcing producers to minimize the per-unit costs of providing service, competition generally advances, rather than hinders, universal service. It increases the number of consumers willing and able to connect to the nation's telecommunications networks.

7. Of course, full competition does not exist in many areas of telecommunications, and, because of the general benefits society derives from universal service, even full competition by itself may not be sufficient to further our public interest goals. In those circumstances, policymakers may need to intervene. Regulatory policies should be capable of implementation in a timely manner, cost-effective to both regulators and industry, and enforceable.

2. Need for Reform. 8. The Communications Act provides that carriers shall offer interconnection when it is determined to be in the public interest. The ability to interconnect has become more important because today telecommunications is increasingly provided by a system of independent, interconnected networks, often referred to as a ''network of networks.'' In this environment, the ability of communications to move seamlessly from one network to another is becoming increasingly vital. Uneconomic and unnecessary barriers to the flow of communications between the increasing number of diverse networks would seriously undermine the benefits of telecommunications to consumers and the American economy and would impede the development of competition between network providers.

9. Efficient interconnection with LEC networks, which reach, on a nationwide basis, 93.8% of all households, benefits both subscribers and providers of services. First, interconnection enables new providers to compete with incumbent LECs on the basis of the services they offer the public and the prices, quality, and features of those services. In the complete absence of interconnection, prospective new entrants would have to attract enough capital to build and provide origination, transport, and termination services for an entire geographic area, such as a metropolitan area. Second, interconnection allows subscribers of one network to obtain access to subscribers of all other interconnected networks. In a market with multiple and possibly competing networks, it is unlikely that all people would subscribe to all networks. Thus, without interconnection, subscribers to one network may be unable to reach people who subscribe only to some other network.

10. The availability of interconnection cannot, however, be divorced from its price. Interconnection that is priced too high can be the marketplace equivalent of no interconnection. An interconnection obligation is undermined if the charges imposed for interconnection are excessive, and society will not enjoy the benefits described above. On the other hand, if interconnection is available at an unreasonably low price, service providers that otherwise may have built their own facilities to serve part of a LEC's service territory in competition with the LEC may decline to do so. Facilities-based competition can confer benefits on customers such as lower prices, accelerated innovation, and deployment of new technologies. Interconnection at efficient prices should lead to the highest and best use of the existing telecommunications infrastructure, as well as the expansion of this infrastructure, because proper pricing will send economically efficient signals to firms to decide whether the costs of interconnection in a particular case are less than or greater than the benefits of interconnection.

11. In the absence of market power or other distortions, efficient forms of interconnection may develop through private negotiation. For example, small interexchange carriers interconnect with one another, and purchase and resell one another's services, with little or no outside involvement. Similarly, Internet service providers have developed interconnection arrangements without intervention by outside parties.

12. LECs, however, unquestionably still possess substantial market power in the provision of local telecommunications services. Thus, a LEC may have the incentive and the ability to prevent or reduce the demand for interconnection with a prospective local competitor, such as a CMRS provider, below the efficient level by denying interconnection or setting interconnection rates at excessive levels. Such abuse of market power could lead to at least two problems. First, a LEC may extract monopoly rents for interconnection. Excessive prices for termination of CMRS-originated traffic would lead to retail prices (charged to CMRS customers) that are above the efficient level and thus discourage CMRS customers from placing calls to wireline customers that would be made if LEC interconnection rates were set at efficient levels. Second, a LEC may attempt to restrict the entry of potential competitors. To the extent that certain CMRS providers are potential competitors to a LEC's local telephone service, or to the extent that a LEC may wish to provide certain wireless services, a LEC may have an incentive to withhold interconnection from some CMRS providers. Even where interconnection is mandated, a LEC still could potentially restrict entry either by setting the interconnection rates prohibitively high or by specifying technical requirements for interconnection that are disadvantageous for the connecting network.

13. Another potential problem is that a LEC and an interconnecting CMRS provider may have the incentive and the ability to engage in collusive behavior. If the CMRS provider constitutes a substitute for the LEC network, the two networks could negotiate a high per minute charge to terminate each other's traffic as a means of giving each incentives to charge customers supra-competitive rates for local exchange service. It may be particularly likely that such collusive behavior could occur in cases where the CMRS provider is an affiliate of the LEC. Negotiation of interconnection arrangements could be used as a vehicle to keep the retail price of their respective retail services uneconomically high at the expense of customers. Depending on market structure developments, intervention may be necessary to prevent such outcomes.

14. As set forth below, we have recognized LEC market power by requiring that LECs interconnect with CMRS providers. Under our rules, LECs must negotiate in good faith to provide the type of interconnection arrangement desired by CMRS providers under the principle of mutual compensation, and to furnish interconnection for interstate

traffic at reasonable and non-discriminatory rates. In response to an earlier Notice relating to CMRS interconnection issues, many commenters strongly argued, however, that our current policy can be and is being used by LECs to reduce competition. LECs typically terminate many more calls that originate from the cellular network than an interconnecting cellular network terminates LEC-originated calls. This is due, in part, to cellular customers' reluctance to give out their wireless telephone numbers (since they generally are charged for incoming calls), charges for cellular air time, or technical limitations on cellular telephones (*e.g.*, limited battery life). Because of this imbalance, LECs clearly would benefit competitively from maintaining high, even if symmetrical, interconnection charges. With the growing significance of interconnection and competition in today's telecommunications environment, we believe that a reexamination of our policies addressing compensation arrangements for LEC–CMRS interconnection is essential.

II. Compensation for Interconnected Traffic Between LECS and CMRS Providers' Networks

A. Compensation Arrangements

1. Existing Compensation Arrangements. 15. According to the comments received in this proceeding, at present, cellular carriers typically pay LECs three types of usage-sensitive charges for local calls from cellular subscribers to LEC subscribers, regardless of the physical interconnection facility used: (1) Per-call charges for call set-up; (2) per-minute charges for usage; and (3) per-minute, per-mile charges for transport between the cellular carrier's mobile telephone switching office (MTSO) and the LEC's tandem or end-office switch. Some cellular carriers contend that, notwithstanding our mutual compensation requirement, they typically are forced to pay LECs these charges for calls originating from cellular customers and terminating to LEC wireline customers, as well as for calls originating from LEC customers and terminating to cellular customers. Commenters also submit that, typically, substantially more traffic flows from cellular carriers to LECs than *vice versa*. This may be due to cellular customers' reluctance to give out their wireless telephone numbers, because of charges for cellular air time, technical limitations on cellular telephones (*e.g.*, limited battery life), or other factors. On the other hand, for services such as paging, most (or all) of the interconnected traffic flows from LECs to CMRS providers, rather than *vice versa*, because most pager devices are incapable of originating calls.

16. We invite commenting parties to provide more detailed information about existing LEC–CMRS interconnection arrangements. Specifically, we are interested in data regarding the rate structures and price levels in those arrangements. We also request comment on what facilities and technical arrangements are used in providing LEC–CMRS interconnection, what rate elements are applicable to providing the services, and the functions that are associated with each rate element. To what extent are these arrangements filed in tariffs before state commissions, or are otherwise publicly disclosed? To what extent do these arrangements make use of provisions in FCC tariffs? We also seek comment on the extent of, and reasons for, the imbalance of traffic flowing between LECs and CMRS providers. Are traffic flows likely to be more balanced in the future for existing commercial mobile radio services or new services such as PCS? Do LECs' current charges/tariffs differ depending on the flow of traffic? We also invite parties to submit data on the extent to which existing LEC–CMRS interconnection arrangements involve both interstate and intrastate traffic. In particular, we seek empirical data and analysis on the extent to which significant levels of interstate wireless traffic are being carried under such arrangements. We also seek comment on the extent to which our mutual compensation requirement is not being observed in the marketplace.

2. General Pricing Principles. a. Rate Structure. 17. In general, we believe that costs should be recovered in a manner that reflects the way they are incurred. Network providers incur costs in providing two broad categories of facilities, dedicated and shared. Dedicated facilities are those that are used by a single party—either an end user or an interconnecting network. Shared facilities are those that are used by multiple parties. Shared facilities can be further divided into two sub-categories, those that need to be augmented to increase the network's capacity and those that need not. In the first such sub-category are facilities, such as switches and multiplexing electronics, for which incremental investments can increase the volume of traffic that the network can handle during peak periods. In the second such sub-category are facilities, such as telephone poles and buildings that house equipment, whose capacity will not restrict the volume of traffic that the network can handle during peak periods.

18. The cost of a dedicated facility can be attributed directly to the party ordering the service that uses that facility. To the extent that the benefits of a dedicated facility accrue to the party to whom it is dedicated, it is efficient for that party to pay charges that recover the full cost of the facility. To ensure that the party pays the full fixed cost of the facility, the cost should be recovered on a non-traffic sensitive (NTS) basis (*i.e.*, without regard to actual usage). Charging a flat, cost-based rate ensures that a customer will pay the full fixed cost of the facility, and no more; this ensures that the customer will, for example, add additional lines if and only if the customer believes that the benefits of the additional lines will exceed their cost. An additional advantage of a flat fee is that it does not distort usage. The alternative, a usage-based charge, would cause parties with high traffic volumes to overpay (*i.e.*, pay more than the fixed cost of the facility), while parties with low traffic volumes would underpay (*i.e.*, pay less than the fixed cost of the facility). In addition, a usage-based charge would give all parties an uneconomic incentive to reduce their traffic volumes or to avoid connecting with networks that impose such charges. It would also give parties with low volumes of traffic, who face below-cost prices, an incentive to add lines that they valued below their cost.

19. The costs of shared facilities whose cost varies with capacity, such as network switching, should be recovered in a manner that efficiently apportions costs among users. Since the cost of capacity is a function of the volume of traffic the facilities are able to handle during peak load periods, we believe, as a matter of economic theory, that network capacity costs should primarily be recovered through traffic-sensitive (TS) rates charged for peak period traffic, with lower rates for non-peak usage. The peak load price should be designed to recover at least the cost of the incremental network capacity added to carry peak period traffic. Pricing traffic during peak periods based on the cost of the incremental capacity needed to handle additional traffic is economically efficient because additional traffic will be placed on the network if and only if the user or interconnecting network is willing to pay the cost of the incremental network capacity required to handle this additional traffic. Such pricing also ensures that a call made during the peak period generates enough revenue to

cover the cost of the facilities expansion it requires, and it thus gives carriers an incentive to expand and develop the network efficiently. In contrast, off-peak traffic imposes relatively little additional cost because it does not require any incremental capacity to be added, and consequently, the price for carrying off-peak traffic should be lower.

20. We recognize that there may be practical problems in implementing a peak sensitive pricing system. For example, different parts of a given provider's network may experience peak traffic volumes at different times (*e.g.*, in LEC networks, business districts may experience their peak period between 10 and 11 a.m., while suburban areas may have their peak periods between 7 and 8 p.m.). Moreover, peak periods may change over time. For instance, charging different prices for calls made during different parts of the day may cause some customers to shift their calling to the less expensive time periods, which could potentially shift the peak or create new peaks. We seek comment on whether a system with a long peak period (*e.g.*, 8 a.m. to 9 p.m.) and with peak and off-peak rates that reflect both the difference in costs across these periods and customers' propensity to substitute across time periods would improve the utilization rates of the network and would be administratively simple. We seek comment on this analysis, and on possible methods for implementing peak-load pricing or other schemes to recover shared network capacity costs. We also seek comment on possible administrative costs associated with peak-load pricing or other schemes to recover shared network capacity costs.

21.There are also certain shared facilities, such as land, buildings, and telephone poles, whose costs do not vary with capacity (or peak period traffic volumes). As we discuss in the following section on rate levels, there are theoretical and practical problems associated with recovering these shared costs and overheads. We seek comment on how these costs should be recovered and, in particular, on whether they should be recovered entirely through peak rate charges, or through off-peak rates as well. Finally, we note that a carrier may incur varying costs to provide a given service in different geographic areas. We seek comment on how this should be taken into account.

b. Rate Levels. *(1) Long Run Incremental Costs.* 22. The long run incremental cost (LRIC) of a service is the theoretical foundation for efficient pricing of interconnection and other network services. Economists generally agree that prices based on LRIC reflect the true economic cost of a service and give appropriate signals to producers and consumers and ensure efficient entry and utilization of the telecommunications infrastructure. Since customers will buy a good only if the benefit to the customer exceeds the price, prices based on LRIC ensure that customers purchase a good only when the benefit exceeds the cost. Similarly, since firms will offer a service when the revenue exceeds the cost, prices based on LRIC ensure a firm has an incentive to offer a service when customers' willingness to pay for the service exceeds the cost of providing it.

23. Pricing at LRIC raises some difficulties, however. First, attempting to determine the LRIC of a specific service for a particular LEC is likely to raise significant practical and administrative problems. In addition, given that services are provided over shared facilities and there are economies of scale and scope, setting the price of each discrete service based on the LRIC of that service will not recover the total costs of the network. Similarly, where technological developments are reducing the costs of providing service, setting the price of discrete services equal to the forward-looking LRIC of each service is not likely to recover the historical, embedded costs of the network (or the interstate share of such costs assigned by our Part 36 separations rules). We seek comment on the empirical magnitude of these cost differentials.

(2) Recovering Costs in Excess of Long Run Incremental Costs. 24. The fact that pricing based on the LRIC of specific services may not cover all common costs raises difficult issues for pricing interconnection. In particular, this problem means that, if all costs are to be recovered, some services must be priced above LRIC, which will cause some distortions. It is therefore necessary to consider whether terminating carriers should be allowed to recover such costs in excess of LRIC, and if so, to address the method of recovering such costs that would minimize economic distortions and best advance our goals. We seek comment on how best to deal with this recovery issue and, in particular, on the following approaches.

25. One approach would be to allow carriers to set LEC–CMRS interconnection rates equal to the LRIC of the individual services associated with interconnection, and to recover common costs by having the rates for other services, such as vertical calling features (*e.g.*, call waiting, call forwarding, or caller ID), exceed LRIC. This would clearly benefit those CMRS and LEC networks that seek to interconnect with one another's network. We seek comment on whether, and on what basis, LEC–CMRS interconnection offerings should be treated differently from a carrier's other service offerings, which generally are priced to recover some portion of shared costs and overheads.

26. Another approach would be to allocate shared costs and overhead among services in an inverse relationship to the sensitivity of demand for each of the services. Under this ''Ramsey rule,'' a higher percentage of shared costs and overheads would be allocated to services for which the quantity demanded declines less as the price increases, than to services for which demand is more sensitive to changes in price. In theory, this approach has the advantage that it efficiently minimizes reductions in the quantities of services demanded due to prices above LRIC. While demand sensitivity is clearly relevant to setting efficient prices, there is some concern about how Ramsey principles should be applied to markets subject to actual or potential competition. We recognize that Ramsey pricing principles were developed in the context of a regulated monopoly and not for markets subject to existing or potential competition. We seek comment on whether such an approach is desirable for markets in which competition is developing. We also seek comment on whether such a pricing rule is in the public interest, given that it may result in imposing the greatest burdens on those customers who have the fewest alternatives.

27. A third commonly employed alternative would be to allocate shared costs and overheads among all services based on some specified allocator. For example, shared costs and overheads could be allocated among services uniformly in proportion to each service's LRIC or direct costs, or could be apportioned based on some measure of usage. The advantages of these allocators are that they are relatively simple to administer and result in full recovery of all shared and overhead costs. A principal drawback of this approach, however, is that it may have undesirable effects on demand for particular services. More specifically, such allocators do not minimize the distortions in demand caused by divergences between price and LRIC, and may induce inefficient investment by incumbents and entrants. In addition, or in the alternative, we could limit the permissible overhead loading factor a LEC could collect from an interconnecting CMRS provider to the overhead loading factor that the LEC

uses for some comparable service or services that compete with CMRS offerings.

28. A fourth approach would be to allow incumbent carriers such as LECs to employ the ''efficient component pricing rule'' (ECPR) proposed by economist William Baumol and others. Under this approach, an incumbent carrier that sells an essential input service, such as interconnection, to a competing network would set the price of that input service equal to ''the input's direct per-unit incremental cost plus the opportunity cost to the input supplier of the sale of a unit of input.'' The ECPR essentially guarantees that the incumbent will recover not only all of its overheads, but also any profits that it would otherwise forego due to the entry of the competitor. Proponents of the ECPR argue that the ECPR creates an incentive for services to be provided by the least-cost provider and that it makes the incumbent indifferent between selling an input service to a competitor or a final service to an end user. Critics, however, have shown that these properties only hold in special circumstances. On the other hand, some express concern that the ECPR may inhibit beneficial entry. In addition, because the ECPR would permit an incumbent carrier to recover its opportunity costs, including any monopoly profits in the sale of the final service, the use of this rule may prevent competitive entry from driving prices towards competitive levels. These arguments cast significant doubts on claims that the rule will yield efficient outcomes. Finally, as an administrative matter, it would be difficult for a regulatory agency to determine the actual level of a carrier's opportunity cost.

29. Finally, we might adopt an approach that permits a range of permissible rates (and implicitly of overhead allocations). We note, for example, that the Commission has repeatedly expressed concern about preventing cross-subsidies. Some economists have defined the following alternative tests for cross-subsidy: (1) The price of each individual service, and of any group of services, must be less than the stand-alone cost of that service (*i.e.*, the cost of providing that service alone but no other services); or (2) the revenue from each service and from all subsets of services must exceed the incremental cost of the service or the subset of services. According to these definitions, if either of the two tests is satisfied, there is no cross-subsidy. This test effectively requires that the revenues generated by any group of services that share a common facility recover at least the incremental cost of that facility. We seek comment on this theory, and on whether it reduces the range of acceptable prices, and hence, implicitly, the range of acceptable allocation schemes.

30. We seek comment on the foregoing approaches to determining rate levels, how they might apply in the context of LEC–CMRS interconnection, the extent to which they are administratively feasible, and how they will affect rates for other services including intrastate services. We also seek comment on how these LEC–CMRS interconnection rate levels could affect telecommunications network subscribership and universal service. We also ask parties to address the extent to which these approaches could be implemented in the context of the specific pricing options discussed in the following section.

c. Practical Considerations Regarding Cost-Based Pricing. 31. LEC–CMRS interconnection rates could be based on a specific demonstration of the costs of providing service, much as we do for establishing rates for new services under our price cap rules. The new services test requires price cap LECs to demonstrate that the rates for a new service recover the direct costs of that service plus a reasonable share of overhead loadings. We seek comment on whether we should provide guidance with respect to such a cost showing similar to our interpretation of the new services test in *Telephone Company-Cable Television Cross Ownership Rules,* Memorandum Opinion and Order on Reconsideration, 59 FR 63909 (December 12, 1994) (*Video Dialtone Reconsideration Order*). In addition, we seek comment on how we should deal with overhead loadings and whether we should employ any of the alternative approaches discussed in the previous section. We also note that similar cost justification requirements could be enforced by state commissions.

32. The approaches described in the preceding paragraph have a number of advantages, in that they result, at least in theory, in cost-based rates for particular services. On the other hand, these approaches have the disadvantage, typically, of requiring contentious, and time-consuming administrative proceedings to resolve the complex issues raised by cost studies.

3. Pricing Options. a. Interim Approach. 33. Any significant delays in the resolution of issues related to LEC–CMRS interconnection compensation arrangements, combined with the possibility that LECs could use their market power to stymie the ability of CMRS providers to interconnect (and may have incentives to do so), could adversely affect the public interest. We tentatively conclude that it will better serve the public interest to give providers some degree of certainty, within a short time, that reasonable interconnection arrangements will be available. Some of the alternatives described below may approximate the results of cost studies, and thus provide most of the advantages of the theoretical model described above, but avoid the main disadvantages—administrative costs and delays.

34. Accordingly, we tentatively conclude that an interim pricing approach should be adopted that could be implemented relatively quickly and with minimal administrative burdens on CMRS providers, LECs, and regulators. We plan to move forward expeditiously so as to have an interim pricing approach in place in the near term. Below, we discuss our tentative conclusion that a bill and keep approach (zero rate for termination of traffic) should apply with respect to local switching facilities and connections to end users, with the exception of dedicated transmission facilities linking the two networks. We also set out a number of alternative approaches. Our preferred approach or the alternative options could be adopted as interim solutions for some limited period of time. We seek comment on whether such an approach should apply for a prescribed time period, whether months or years, or until the occurrence of a specific triggering event. With respect to our preferred approach and each of the alternative options discussed below, we ask parties to address whether some combination of these options should be made available, and on the implementation costs for carriers, as well as the speed with which such options could be implemented. In particular, we seek comment on the extent to which modifications would be required in the network to implement such options (*e.g.*, to collect information necessary for billing and collection), the cost of such modifications, and who should bear such costs. We also solicit parties' analysis of the relevant administrative burdens on the Commission caused by the various options, and the ease with which these options can be enforced. Finally, we seek comment on any changes to our approaches that would be necessary or advisable if LECs and CMRS providers were to change current arrangements for recovering costs from end users.

(1) Tentative Conclusions. 35. *Bill and Keep.* We tentatively conclude that a ''bill and keep'' arrangement represents the best interim solution with respect to

terminating access from LEC end offices to LEC end-user subscribers, and with respect to terminating access from equivalent CMRS facilities to CMRS subscribers. Under bill and keep arrangements, neither of the interconnecting networks charges the other network for terminating the traffic that originated on the other network, and hence the terminating compensation rate on a usage basis is zero. Instead, each network recovers from its own end-users the cost of both originating traffic delivered to the other network and terminating traffic received from the other network. Bill and keep arrangements yield results that are equivalent to the networks charging one another incremental cost-based rates for shared network facilities if the incremental cost of using such facilities is equal to (or approximates) zero for both networks. We note that several states, including California, Connecticut, Texas and Pennsylvania, have implemented bill and keep arrangements, at least on an interim basis. We tentatively conclude that, as an interim solution, such bill and keep arrangements should cover both peak and off-peak time periods.

36. Bill and keep arrangements appear to have a number of advantages, especially as an interim solution. First, such arrangements are administratively simple and would require the development of no new billing or accounting systems. Second, the bill and keep approach prevents incumbent LECs that possess market power from charging excessively high interconnection rates. Third, according to proponents, a bill and keep approach is economically efficient if either of two conditions are met: (1) Traffic is balanced in each direction, or (2) actual interconnection costs are so low that there is little difference between a cost-based rate and a zero rate. Proponents of bill and keep submit that condition (2) is satisfied in the case of LEC–CMRS interconnection because they allege that the average incremental cost of local termination on LEC networks is approximately 0.2 cents per minute.

37. In view of these advantages, we tentatively conclude that, for terminating access between the end office (or equivalent CMRS facilities) and the end-user subscriber, a bill and keep arrangement applied to both peak and off-peak periods represents the best interim solution. We also tentatively conclude that a requirement that LECs and CMRS providers not charge one another for terminating traffic from the other network would not violate any party's legal rights. Specifically, we believe that a bill and keep requirement would not deprive either LECs or CMRS providers of a reasonable opportunity to recover costs they incurred to terminate traffic from the other's network, because these costs could be recovered from their own subscribers. We seek comment on these tentative conclusions. We also seek comment on the effect that a bill and keep approach is likely to have on traffic flows between LEC and CMRS networks: is this approach likely to lead to more balanced traffic flows, or will it create incentives to perpetuate or exacerbate existing traffic imbalances between LEC and CMRS networks?

38. *Transport Costs between the CMRS and LEC Networks.* The analysis of bill and keep presented in comments by Dr. Gerald W. Brock, Director of the Graduate Telecommunications Program, George Washington University, appears not to consider the costs associated with the physical transmission circuits connecting CMRS MTSOs with LEC end offices. Transmitting calls between CMRS and LEC networks can be accomplished through the use of dedicated facilities between CMRS MTSOs and LEC end offices, or through dedicated facilities between CMRS MTSOs and LEC tandem switches. When tandem switches are used, additional tandem-switched transport, consisting of tandem switching and transmission over common transport facilities, is used to transmit traffic between LEC tandem switches and LEC end offices. These facilities are generally provided by LECs. With respect to dedicated transport facilities, cost-causation principles suggest that the costs of such facilities be recovered from the cost-causer through flat rates. With respect to shared facilities used to provide tandem-switched transport, cost-causation principles suggest traffic-sensitive cost recovery, at least during peak periods.

39. LECs' existing interstate access tariffs include flat rates for dedicated transport (entrance facilities and direct-trunked transport) that we have concluded, in general, are reasonably cost-based. Similar charges are included in many LEC intrastate access tariffs. These tariffed charges could be applied to CMRS providers relatively rapidly, with virtually no additional administrative proceedings. Moreover, we believe that the dedicated transport facilities used to connect LEC and IXC networks are similar or identical to the facilities connecting LEC and CMRS networks. Accordingly, we tentatively conclude that, when LECs provide the dedicated transmission facilities between CMRS MTSOs and LEC networks, they should be able to recover the costs of those facilities from CMRS providers through appropriate dedicated transport rates found in their existing access tariffs. We seek comment on this tentative conclusion.

40. We also seek comment on whether and how LECs should recover from CMRS providers the costs of tandem switching and common transport between tandem switches and end offices, in cases where such LEC-provided facilities are used. The LECs' interstate access tariffs include usage-sensitive charges for tandem-switched transport, as do many state tariffs. Should these tandem-switched transport charges be applied to CMRS providers? Should such charges apply to all minutes, or only to traffic during peak periods?

(2) Other Options. 41. While we tentatively conclude that the proposals outlined above would lead to LEC–CMRS interconnection arrangements that best serve our public interest objectives during an interim period, we also seek comment on a number of alternative approaches. We seek comment on the relative costs and benefits of our proposals and these options. We also invite parties to suggest other alternatives or combinations of these options that would advance our public interest objectives and that could be implemented rapidly and with minimal administrative costs.

42. *Bill and Keep for Off-Peak Usage Only.* Brock acknowledges that ''[i]f interconnection charges are imposed, they should be assessed at the long run incremental cost of adding capacity.'' He also acknowledges that ''the true cost for peak period usage is much greater than the cost for off peak usage * * * (which) may be near zero,'' and that the cost for peak period usage is much higher than the average incremental cost of local usage, which he estimates to be 0.2 cents ($0.002) per minute. In light of Brock's comments, we seek comment on whether a bill and keep approach should be limited to off-peak traffic, with charges assessed for peak-period traffic. We seek comment on what charges should apply for peak period traffic under this approach. For instance, we seek comment on whether some subset of existing access charges should apply, or whether an incremental capacity cost for peak-period traffic should be developed. We also seek comment on the peak periods for both LEC and CMRS networks, and the appropriate period for a peak capacity charge. In addition, we seek comment on whether charging different prices for peak and off-peak traffic has any disadvantages and whether it is

likely to result in a shift in the peak period. In addition, we seek comment on the potential administrative costs and complexity involved in this approach.

43. *Subset of Access Charges.* To the extent that LEC–CMRS interconnection arrangements are similar to the interconnection arrangements between LECs and IXCs or other access customers, the rates for LEC–CMRS interconnection could be based on a subset of the LECs' existing interstate access charges (or comparable rates from their intrastate access tariffs). As noted above, LECs could charge existing local transport rates for the transmission facilities that they provide to link LEC and CMRS networks. Similarly, LECs could charge CMRS providers existing local switching rates for minutes of use originating on CMRS networks and terminating on LEC networks. We do not envision that the LECs would charge CMRS providers the carrier common line (CCL) charge. The CCL charge, in essence, represents a subsidy from LECs' interstate access customers to reduce the subscriber line charges (SLC) paid by end-user subscribers for loop facilities that are dedicated to their use. We do not believe that such a subsidy should be imposed on CMRS providers. Under this alternative, we are also inclined not to permit LECs to charge CMRS providers the transport interconnection charge (TIC), given that the extent to which the TIC recovers transport-related costs is unclear. We seek comment on what subset of access charges should apply if we select this option as an interim compensation mechanism. We also seek comment on whether per-minute access charges should be converted into peak-sensitive capacity charges (either per-peak minute or flat-rate) in the context of LEC–CMRS interconnection, and, if so, on how to do so. In addition, we seek comment on whether the LECs' access charges would be an appropriate framework for LEC–CMRS interconnection once our Access Reform proceeding is completed.

44. *Existing Interconnection Arrangements Between Neighboring LECs.* In the alternative, LEC–CMRS interconnection arrangements could be based on existing arrangements between neighboring LECs. We seek comment on whether LECs should be required to disclose publicly the terms of their interconnection arrangements with neighboring LECs and to offer CMRS providers comparable arrangements. This option could help ensure that CMRS providers receive interconnection on terms and conditions that are at least as favorable as neighboring LECs. Neighboring LECs generally are larger and more established than CMRS providers and thus more likely to have been able to negotiate reasonable interconnection arrangements. We ask parties for comment on this option. In particular, we ask parties to describe existing arrangements between neighboring LECs and to comment on whether these arrangements would be workable in the context of other forms of LEC–CMRS interconnection.

45. *Existing Interconnection Arrangements Between LECs and Cellular Carriers.* Another possibility would be to apply the same rates, terms, and conditions in existing LEC-cellular interconnection arrangements to broadband PCS providers, or to other categories of CMRS providers. Like the previous option, this option could help ensure that CMRS providers would receive interconnection on terms and conditions that are at least as favorable as cellular carriers. We seek comment on whether cellular carriers, like neighboring LECs, are better established than broadband PCS providers and thus are more likely to have negotiated reasonable interconnection arrangements. We ask the parties to describe existing interconnection arrangements between LECs and cellular carriers and to comment on whether these arrangements could be extended to other forms of LEC–CMRS interconnection.

46. *Intrastate Interconnection Arrangements Between LECs and New Entrants.* In a few states, LECs have filed tariffs providing for interconnection arrangements with competing wireline providers of local exchange service. We invite parties to comment on the various state approaches, such as those in Illinois, Michigan, Maryland, and California, in particular on whether CMRS providers should be eligible for these offerings or whether there is any technical or economic basis for distinguishing CMRS from wireline interconnection. We also ask parties to provide us with other relevant information about state regulations in this area, and to comment on the extent to which state actions in wireline-wireless interconnection may serve as a model for LEC–CMRS interconnection. We note that, as part of broader initiatives to remove the statutory or regulatory barriers to entry into the local telephone market, several states have initiated proceedings, and in some cases adopted interim or permanent rules, governing interconnection arrangements between LECs and competing local carriers. We ask parties to comment on these state regulations and on the relative costs and benefits of various approaches states have taken in this area.

47. *Measured Local Service Rates.* With respect to rates that recover the costs of shared facilities whose costs vary in proportion to capacity, we seek comment on whether interconnection rates should be set at some fixed percentage of the measured local service rates that LECs currently charge their local customers. For example, if a LEC currently charges its own measured local service customers 5 cents per minute, it could charge an interconnecting CMRS provider half that amount—2.5 cents per minute. This option essentially would assume that the existing measured service rates are cost-based, and that the LEC's cost in terminating a call placed by a CMRS customer is one-half (or some other percentage) of the cost of both originating and terminating a call placed by a LEC customer to another LEC customer. Under a variant of this option, if a LEC does not offer measured local service, or if few LEC customers select such service, an imputed per-minute rate could be derived by dividing the LEC's monthly local service rate by the average customer's number of local minutes originated per month. Both the basic option and the variant discussed here have the appeal of facilitating competition between CMRS providers and LECs, by ensuring that CMRS providers never pay more for interconnection than LECs charge for a complete call. A disadvantage of these options is that they would not necessarily result in cost-based interconnection rates.

48. *Uniform Rate.* We also seek comment on whether a presumptive uniform per-minute interconnection rate should be established for all LECs and CMRS providers. Such a rate could be developed from generic, forward-looking studies of LEC network costs. We invite parties to submit any such studies into the record of this proceeding. A second option would be to develop such a rate based on one or more (or an average) of the state policy decisions cited in the preceding paragraph. Interconnection rates that have been ordered or accepted by state commissions range between 0.5 cents to 2.4 cents per minute, with a median of around one cent per minute. A third possibility would be to set such a uniform rate based on the average level of LECs' interstate access charges. For example, the per minute rate for terminating traffic interconnected at an end-office (exclusive of flat-rate charges for circuits connecting LEC and CMRS networks and per-minute charges for tandem switched transport) could be set

based on the average level of LECs' interstate local switching charges, but not transport interconnection charges or carrier common line charges. We seek comment on the advantages and disadvantages of establishing a uniform interconnection rate level, whether establishing such a uniform rate would be lawful, the basis on which such a rate might be set, and the practical problems of implementing such a rate scheme. We also seek comment on whether such a rate, instead of being a presumptively lawful rate, should be a prescription, and on what showing a carrier would need to make to charge a different rate. In the alternative, we seek comment on whether carriers should apply different interconnection rate levels in different geographic areas that they serve.

49. *Bill and Keep Until a Satisfactory Rate Is Developed.* Finally, we seek comment on whether a bill and keep arrangement should be imposed on a LEC pending the negotiation of a satisfactory interconnection arrangement between the LEC and a CMRS provider or the approval of other cost based charges. If the negotiations were to break down, a reasonable basis for resolving the dispute might be the imposition of a rate equal to the lowest of: (1) Existing interconnection arrangements between the LEC and neighboring LECs; (2) intrastate interconnection arrangements between the LEC and new entrants; or (3) a subset of LEC interstate access charges for terminating traffic. A LEC would be allowed, however, to demonstrate that the lowest of the charges described above does not provide the LEC with a reasonable opportunity to recover all the costs incurred in terminating CMRS traffic on the local landline network, and some overhead costs. This approach would preserve the primary role of negotiations between the parties in reaching interconnection arrangements, but would limit the LEC's ability to exercise its market power, while simultaneously creating an incentive for it to negotiate a satisfactory rate expeditiously. We also seek comment on whether CMRS providers would have an incentive to negotiate under this approach.

b. *Long Term Approach.* 50. We seek comment on what the long-term approach to interconnection pricing should be, whether one of the interim options outlined above should be the permanent methodology, or whether interconnection rates should be based on a specific demonstration of the cost of providing service, much as we require for establishing rates for new services under our price cap rules. We believe that, in the long term, pro-competitive LEC–CMRS interconnection arrangements should be developed that advance our public interest objectives. First, these arrangements should give efficient incentives regarding both consumption and investment in telecommunications services. To this end, prices should be reasonably cost-based. Cost-based prices could be derived through cost studies, or could be based on potentially reasonable proxies in lieu of developing rates based on complete cost justifications, possibly including one or more of the interim approaches described above. Moreover, over time, we believe that price cap regulation and increasing competition will force interconnection rates toward cost. Ultimately, markets may become sufficiently competitive that cost-based interconnection prices should result without any regulatory intervention.

51. Second, functionally equivalent forms of network interconnection arguably should be available to all types of networks at the same prices, unless there are cost differences or other policy considerations that justify different rates. Thus, in the long run, if LECs provide essentially similar interconnection services to CMRS providers and to IXCs, then it may well be in the public interest for the rates in LEC–CMRS interconnection arrangements not to differ from the rates for LEC–IXC interconnection—*i.e.*, access charges. We acknowledge, however, that there may be significant reasons, including our interest in facilitating the competitive development of CMRS and considerations relating to the Part 36 jurisdictional separations rules, that may necessitate differences in regulatory regimes. We also recognize that current interstate access charges are problematic, and in the near future we intend to initiate a comprehensive proceeding to reform the access charge regime. We also seek comment on the impact of each of the pricing options on universal service considerations. Finally, we note that substantially different prices for similar forms of interconnection raise the possibility that parties could seek to deflect traffic from a more costly form of interconnection to a less costly form. We invite comment on the implications of this possibility, including methods to prevent such traffic deflection.

c. *Symmetrical Compensation Arrangements.* 52. We tentatively conclude that LEC–CMRS interconnection rates should be symmetrical—that is, LECs should pay CMRS providers the same rates as CMRS providers pay LECs. Most existing interconnection arrangements between LECs and competing wireline providers of local exchange service require that interconnection rates be symmetrical.

53. We recognize that symmetrical interconnection rates have certain disadvantages. Asymmetrical, cost-based rates have the benefit of providing each of the carriers (and, if passed through to them, their customers) incentives to use resources such as interconnection commensurate with the actual cost of those resources. LEC networks and CMRS networks use different technologies that may have different costs. If interconnection rates were fully cost-based, then a LEC might pay a CMRS provider different interconnection rates than the CMRS provider would pay the LEC.

54. On the other hand, symmetrical compensation rates would be administratively easier to derive and manage than asymmetrical rates based on the costs of each of the respective networks. Moreover, symmetrical rates could reduce LECs' ability to use their bargaining strength to negotiate an excessively high termination charge that CMRS providers would pay LECs and an excessively low termination rate that LECs pay CMRS providers. Setting asymmetric, cost-based rates might require evaluating the cost structure of non-dominant carriers, which would be complex and intrusive. Accordingly, we tentatively conclude that interconnection arrangements should include symmetrical compensation rates, at least during an interim period. We seek comments on the foregoing analysis. Commenters should discuss any other reasons why symmetrical or asymmetrical compensation rates would be in the public interest and the relative merits of these approaches. We also seek comment on whether we should revisit our existing policy of forbearing from regulating CMRS providers' rates in order to enforce our interim policies with respect to the rates CMRS providers charge to LECs.

55. In addition, we note that, according to a number of parties, many LECs do not now pay any compensation to CMRS providers for LEC-originated traffic that terminates on their networks, and that some LECs even impose charges on CMRS providers for such traffic. Such conduct would appear to violate our existing mutual compensation requirement. We seek comment on whether such violations are occurring and what methods could and should be used to enforce this requirement. In *Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services,* Second Report and Order, 59 FR 18493 (April

19, 1994), we stated that CMRS providers may file complaints, under section 208 of the Act, if a LEC violates the requirement that they charge the same rates to CMRS providers for interstate interconnection as they charge other mobile service providers. Is this avenue for obtaining remedies sufficient, or should we institute some other procedure or other mechanism to ensure that LECs comply with our existing rules? For example, should we require LECs to report to us on the amounts of compensation they are paying to CMRS providers for traffic that originates on LEC networks and terminates on CMRS networks? Are alternative dispute resolution procedures necessary?

C. Implementation of Compensation Arrangements

1. Negotiations and Tariffing. 56. As discussed above, we believe that some involvement in the formation and administration of interconnection arrangements between LECs and CMRS providers would help to counter possible abuses of market power and would help ensure that these arrangements are efficient and advance the public interest. We also have addressed the types of compensation arrangements that we believe would best serve the public interest. We seek more detailed comment on the type of involvement that would be optimal in light of our views on the compensation arrangements. In particular, we ask parties to comment on the interrelationship of the procedural issues addressed in this section to the substantive policy options regarding compensation arrangements discussed above. Some of the substantive options discussed above might make some procedural approaches infeasible, or could make certain protections unnecessary.

57. In considering how to implement our policies regarding interconnection arrangements, we seek to promote arrangements that foster competition and advance economic efficiency and our other goals. We also desire to enable LECs and CMRS carriers to respond rapidly and flexibly to changing interconnection needs. We seek comment on whether an open process in which a LEC and a CMRS provider freely discuss and negotiate a wide variety of interconnection options is preferable to a process whereby the LEC presents the CMRS provider with a limited choice of preset interconnection options. There may be a useful purpose in some level of intervention to prevent abuse of market power or unreasonable discrimination. This may be particularly critical in cases in which the parties are unable to negotiate a satisfactory agreement, but may also be valuable as a ''backstop'' measure even when parties can reach agreement, to prevent unreasonable discrimination against other parties or anticompetitive collusion that might disadvantage consumers.

58. If LECs and CMRS providers were to negotiate interconnection arrangements consistent with the compensation framework discussed above, the public interest would be served while avoiding the need for intervention. As discussed above, however, we believe that optimal compensation arrangements are unlikely to result from purely private negotiations. At least for the near future, there is likely to be an imbalance in negotiating power between the incumbent LECs, which currently possess monopoly power in local exchange markets, and new CMRS providers seeking to enter such markets. The LECs may seek to impose unduly high interconnection rates or other unreasonable conditions that could reduce CMRS entry. Moreover, there is a significant risk that LECs may not offer new CMRS carriers interconnection agreements that are as financially advantageous as those that large and incumbent CMRS providers have already secured. Finally, in cases where LECs and CMRS providers compete directly against one another, there is a significant risk that LECs and CMRS providers could engage in collusive behavior and voluntarily agree to arrangements that would not advance the public interest. Thus, participation in the process by regulators may be warranted for some period of time.

59. An alternative would be a requirement that voluntarily-negotiated interconnection contracts be filed publicly. Such public filing—either at the Commission (pursuant to section 211) or at state commissions—could reduce the LECs' ability to engage in unreasonable discrimination among CMRS providers, although we recognize that such a procedure would not necessarily ensure that arrangements will comply with the substantive standards discussed above. We also seek further comment on possible ways to minimize the burden of such disclosure and protect the confidentiality of LECs' and CMRS providers' proprietary data, while still obtaining disclosure of enough information to advise new entrants about rates, terms, and conditions. Finally, we seek comment on whether filing at a regulatory agency is necessary if the carriers themselves were required to make publicly available relevant, specified information about the agreement upon request.

60. As noted above, even public disclosure of negotiated agreements may not be sufficient to prevent anticompetitive behavior by LECs possessing market power and to ensure that interconnection compensation arrangements are structured in an optimal manner. A more forceful approach would be to require that interconnection arrangements be filed as tariffs. The tariff process is a well-established mechanism for regulatory commissions to protect the public interest by rejecting unreasonable provisions in carriers' offerings. On the other hand, tariffing requirements could entail administrative costs. We tentatively disagree with the position taken by some of the commenting parties that any tariffing requirement would automatically preclude flexible interconnection arrangements. We note that, even in a contractual environment, one party might inflexibly present a limited number of options and refuse to negotiate alternatives; by contrast, even under a tariffing requirement, parties can cooperatively negotiate provisions in a flexible manner. Such provisions can later be incorporated as tariffed options. Thus, tariffed interconnection arrangements need not be ''one size fits all.''

61. The major difference we see between non-tariffed arrangements and arrangements subject to a contract tariff process is that, in the latter case, the regulator has additional mechanisms to protect against terms that may be unreasonable or unreasonably discriminatory, such as issuing an order for investigation pursuant to section 205 of the Act. We seek comment on the costs and benefits of amending our rules to permit the use of contract tariffs to implement LEC–CMRS interconnection arrangements. We also seek comment on whether a different form of contract tariffing for LEC–CMRS interconnection would better serve the public interest. For instance, should a special notice period apply to LEC–CMRS interconnection contracts? Should some level of cost showing be required for LEC–CMRS interconnection contracts, unlike contract tariffs generally?

62. In sum, we tentatively conclude that information about interconnection compensation arrangements should be made publicly available in order to foster competition and to advance the public interest. As to what form this information should take—tariff, public disclosure or other approach—we seek comment from parties as to the costs and benefits of each option, keeping in mind the goals of promoting economic

efficiency through competition and negotiating flexibility.

2. Jurisdictional Issues. 63. We seek comment on three alternative approaches to implementing the interconnection policies discussed above. We recognize that states share our goals of stimulating economic growth by promoting the development of CMRS, which would upgrade the nation's telecommunications infrastructure and would help make available broader access to communications networks. We also recognize that, as detailed above, some state public utility commissions have begun to develop their own policies governing interconnection arrangements. We intend to continue to work cooperatively with state regulators to formulate interconnection policies that advance our common public interest goals.

64. One approach to implementing these goals would be to adopt a federal interconnection policy framework that would directly govern LEC–CMRS two-carrier interconnection with respect to interstate services and that would serve as a model for state commissions considering these issues with respect to intrastate services. Essentially, we would recommend that states voluntarily follow our guidelines, rather than making them mandatory requirements. Under this informal model, we would give guidance to the states while not directing state regulators in interconnection matters. For example, if we were to affirm our tentative conclusions discussed above regarding bill and keep compensation, we could require LECs and CMRS providers to use that approach with respect to terminating interstate traffic originating on the other's network, and encourage states to adopt the same approach with respect to intrastate traffic. On the other hand, there would be no guarantee that states would adopt our proposed model. We seek comment on this option and whether there might be some way to supplement it to better achieve the goals discussed above. For example, would it be beneficial to have an industry group develop specific standards to govern the terms and conditions for interconnection arrangements, based on our informal model? If so, should we set a date certain by which such an industry group should develop these standards?

65. A second approach would be to adopt a mandatory federal policy framework or set of general parameters to govern interconnection arrangements between LECs and CMRS providers with respect to interstate and intrastate services, but allow state commissions a wide range of choices with respect to implementing specific elements of these arrangements. Thus, although compliance with these policy parameters would be mandatory, state commissions would have substantial latitude in developing specific arrangements that would comply with these parameters. One example of a general policy parameter is our existing mutual compensation requirement—which generally requires that there be mutual compensation between LECs and CMRS providers for the reasonable costs of terminating each other's traffic—without precluding the states from setting the actual interconnection rates that LECs and CMRS providers charge. We could also adopt more specific policy parameters, while still preserving a degree of discretion for state commissions. For example, we could require the use of bill and keep compensation, as discussed above, for all off-peak traffic, but allow states to decide whether to use bill and keep or some alternative option with respect to compensation for intrastate traffic during peak periods. The possible benefit of this approach is that it would provide some greater national uniformity, while still preserving the state commissions' flexibility to develop specific arrangements that meet their needs. We seek comment on this option and on whether it would most effectively achieve our goals. If parties do support the use of mandatory federal policy parameters, we ask that they comment on what level of detail we should adopt in such parameters—that is, whether we should adopt broad, general parameters on what the appropriate interconnection rates should be or whether we should adopt a more detailed set of parameters.

66. As a third alternative, we seek comment on our promulgating specific federal requirements for interstate and intrastate LEC–CMRS interconnection arrangements. This approach would place more specific parameters on state action regarding interconnection rates. For example, if we were to affirm our tentative conclusions discussed above regarding bill and keep compensation, we could require LECs and CMRS providers to adopt such an approach with respect to all traffic.

67. We tentatively conclude that the Commission has sufficient authority to implement these options, including our proposal that interconnection compensation on a bill and keep basis be adopted on an interim basis. As a preliminary matter, 47 U.S.C. 332 explicitly preempts state regulation in this area to the extent that such regulation precludes (or effectively precludes) entry of CMRS providers. In addition, to the extent state regulation in this area precludes reasonable interconnection, it would be inconsistent with the federal right to interconnection established by Section 332 and our prior decision to preempt state regulation that prevents the physical interconnection of LEC and CMRS networks. We also believe, contrary to our conclusion in earlier orders, that preemption under *Louisiana Public Service Commission* v. *FCC*, 476 U.S. 355 (1986), may well be warranted here on the basis of inseverability, particularly in light of the strong federal policy underlying Section 332 favoring a nationwide wireless network. Indeed, in this regard, we note that several entities have argued that section 332 itself gives the Commission exclusive jurisdiction in this area.

68. We seek comment on this analysis and also ask parties to submit relevant factual information on this issue. We seek comment, first, on the inseverability of interconnection rate regulation. We note that much of the LEC–CMRS traffic that may appear to be intrastate may actually be interstate, because CMRS service areas often cross state lines, and CMRS customers are mobile. For example, if a cellular customer from Richmond travels to Baltimore and then places a call to Alexandria, the call might appear to be an intrastate call, placed from a Virginia telephone number to another Virginia number, but would in fact be interstate because the call originates in Maryland and terminates in Virginia. Service areas defined as ''local'' in wireless providers' rate structure do not coincide with LEC ''exchanges'' defined by section 221(b) as subject to state authority, and often cross state lines. This is true of many existing cellular providers, and is even more likely to be true with respect to PCS licensees in major trading areas (MTAs). We request that commenting parties submit empirical data and analysis on the extent to which existing LEC–CMRS interconnection arrangements involve both interstate and intrastate traffic, the extent to which significant levels of interstate wireless traffic are being carried under such arrangements, and, most importantly, the extent to which interstate and intrastate traffic can be severed for regulatory pricing purposes. We seek comment on whether either the CMRS or the LEC networks have the technical capability to distinguish whether a wireless call interconnecting with its network is an interstate or intrastate call. We also seek comment on whether we should reconsider our

recent conclusion, cited by BellSouth, that section 332 does not circumscribe state regulation of the interconnection rates that LECs charge CMRS providers.

69. We also ask parties to identify what types of state rate regulation, if any, preclude (or effectively preclude) entry of CMRS providers. We seek specific information on the types of regulations that are either in effect or have been proposed by state regulators in the area of LEC–CMRS interconnection, and seek comment on what impact such state action has had on interconnection arrangements and on the ability of CMRS providers to compete in the market. We also request comment on the meaning and relevance of section 332(c)(1)(B) to our jurisdictional analysis.

70. In determining what the Commission's role should be with respect to implementation of LEC–CMRS interconnection policies, we again emphasize our recognition of the states' legitimate interest in interconnection issues and our intention to work in coordination with state regulators in this regard. In addition, although we have identified three possible options to implement our interconnection compensation proposals, and we seek comment on these options, we also encourage parties to suggest other options, or variations of our options, regarding implementation. Our goal is to achieve implementation of our interconnection proposals in the most efficient and effective manner to the collective benefit of all the parties involved.

III. Interconnection for the Origination and Termination of Interstate Interexchange Traffic

71. We held in 1984 that radio common carriers and cellular carriers are not IXCs and therefore are not required to pay LECs interstate access charges. We have never addressed, however, whether LECs or IXCs should remit any interstate access charges to CMRS providers when the LEC and the CMRS provider jointly provide access service. For example, when a cellular customer places a long-distance call, the cellular carrier typically transmits the call to the LEC, which connects the call to the IXC. Similarly, when long-distance calls are placed to cellular customers, the IXC handling the call typically transmits the call to a LEC, which, in turn, hands it to the cellular carrier for termination to the called party. We have not previously established specific rules or guidelines applicable to the joint provision of interstate access service by a LEC and a CMRS provider. Until CMRS providers generate sufficient traffic to warrant direct connections to IXC points of presence, we believe that most CMRS providers are likely to depend on LECs for interconnection of interexchange traffic to IXCs. Thus, we tentatively conclude that it will be necessary to apply certain protections to such interconnection arrangements, at least in the foreseeable future. We seek comment on this analysis and on our tentative conclusion. We also invite CMRS providers and LECs to describe existing arrangements under which CMRS providers are compensated for originating and terminating interstate interexchange traffic that transits a LEC's network.

72. In the context of the existing access charge regime, we tentatively conclude that CMRS providers should be entitled to recover access charges from IXCs, as the LECs do when interstate interexchange traffic passes from CMRS customers to IXCs (or vice versa) via LEC networks. We propose to require that CMRS providers be treated no less favorably than neighboring LECs or CAPs with respect to recovery of access charges from IXCs and LECs for interstate interexchange traffic. We tentatively conclude that any less favorable treatment of CMRS providers would be unreasonably discriminatory, and would interfere with our statutory objective and ongoing commitment to foster the development of new wireless services such as CMRS. We seek comment on how to implement this non-discrimination requirement. For example, should we require that contracts between neighboring LECs establishing joint arrangements for providing interstate access, as well as comparable contracts between LECs and CMRS providers, be publicly filed pursuant to section 211 of the Act in order to protect against such discrimination? Should such arrangements be included in LEC interstate access tariffs?

73. We also seek comment on the basis for CMRS providers' access charges, which under our proposal would be collected directly or indirectly from IXCs. Should CMRS providers impose interstate access charges that mirror those of the LECs with which they connect? Or should they impose their own access charges, as do many independent LECs? If the latter, should we retain our existing policy of forbearing from regulating CMRS providers' interstate access charges? In the alternative, should we find that, even though CMRS providers may lack market power with respect to end users, they may have some market power over IXCs that need to terminate calls to a particular CMRS provider's customer, or to originate calls (in an equal access context) from such a customer? If we were to adopt such a conclusion, should we adopt guidelines or some other form of pricing regulation to govern CMRS providers' interstate access charges? Should we address the billing arrangements that would apply in this context? Parties are invited to comment on the issues and proposals discussed herein, and to address the costs and benefits of these and possible alternative approaches.

IV. Application of These Proposals

74. We invite comment on whether the proposals and options considered in this Notice of Proposed Rulemaking should apply to interconnection arrangements between LECs and: (1) Broadband PCS providers only; (2) broadband PCS, cellular telephone, SMR, satellite telephony, and other CMRS providers that offer two-way, point-to-point voice communications, which could compete with LEC landline telecommunications services; or (3) all CMRS providers. We solicit comments and analysis on the relative costs and benefits of broader and narrower approaches, and on any technical or economic similarities or differences among CMRS services that would warrant similar or different treatment. (We note that, as a matter of convenience, we refer elsewhere in this notice generically to ''CMRS providers;'' this usage is not intended to exclude the possibility of applying our policies more narrowly.)

75. There may be benefits to focusing primarily on broadband PCS or some other limited group of CMRS services. First, it might be desirable to limit our focus to broadband PCS because it is a new service. We have assigned the initial broadband PCS licenses relatively recently and will soon assign more. Fewer issues arise in applying policy changes to a new service, such as broadband PCS, than to existing services: For example, it is less likely that we would need to consider problems of displacement, interference with existing contracts, or transitions from existing interconnection arrangements to new arrangements.

76. Second, we could consider addressing interconnection between LECs and all types of commercial mobile radio services that support voice telecommunications and could compete with the local telephone services provided by the LECs. The interconnection arrangements between this group of CMRS providers and LECs could have a critical effect on whether these carriers can develop into effective

competitors for providing the local links required for interstate communications. Focusing narrowly either on broadband PCS alone or on this subset of CMRS would allow us to tailor our policies more carefully to the particular subset of carriers or services involved.

77. Third, there are arguments for applying our proposals more broadly to interconnection between LECs and all CMRS providers because this would enable us to make improvements in as large a part of the local telephone and CMRS markets as possible. Moreover, pursuant to Congressional intent, we have taken a number of actions to apply similar regulatory treatment to different types of CMRS providers. Differential treatment among CMRS providers in the critical area of interconnection could be interpreted as inconsistent with our overall policies with respect to CMRS. On the other hand, some of the proposals in this Notice might not be in the public interest if applied to CMRS providers that do not compete with LEC services.

V. Procedural Issues

A. *Ex Parte* Presentations

78. This is a non-restricted notice-and-comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.1203, 1.1206.

B. Initial Regulatory Flexibility Analysis

79. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, the Commission's Initial Regulatory Flexibility Analysis with respect to the *Notice of Proposed Rulemaking* is as follows:

80. *Reason for Action:* The Commission is issuing this *Notice of Proposed Rulemaking* seeking comment on possible changes in the regulatory treatment of interconnection compensation arrangements between LECs and CMRS providers and related issues.

81. *Objectives:* The objective of the *Notice of Proposed Rulemaking* is to provide an opportunity for public comment and to provide a record for a Commission decision on the issues stated above.

82. *Legal basis:* The *Notice of Proposed Rulemaking* is adopted pursuant to sections 1, 2, 4, 201–205, 215, 218, 220, 303(r) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201–205, 215, 218, 220, 303(r) and 332;

83. *Description, potential impact, and number of small entities affected:* Any rule changes that might occur as a result of this proceeding could impact entities which are small business entities, as defined in section 601(3) of the Regulatory Flexibility Act. After evaluating the comments in this proceeding, the Commission will further examine the impact of any rule changes on small entities and set forth findings in the Final Regulatory Flexibility Analysis. The Secretary shall send a copy of this *Notice of Proposed Rulemaking* to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601, *et seq.* (1981).

84. *Reporting, recordkeeping and other compliance requirement:* None.

85. *Federal rules which overlap, duplicate or conflict with the Commission's proposal:* None.

86. *Any significant alternatives minimizing impact on small entities and consistent with stated objectives:* The *Notice of Proposed Rulemaking* solicits comments on a variety of alternatives.

87. *Comments are solicited:* Written comments are requested on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this *Notice of Proposed Rulemaking* but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall send a copy of the Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

C. Comment Filing Procedures

88. Comments and reply comments should be captioned in CC Docket No. 95–185 only. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before February 26, 1996, and reply comments on or before March 12, 1996. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and nine copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, NW., Room 544, Washington, DC 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, NW., Room 239, Washington, DC 20554.

89. In order to facilitate review of comments and reply comments, both by parties and by Commission staff, we request that such comments be organized in a uniform format. Specifically, we ask the parties to organize their comments and reply comments according to the following outline:

I. General Comments
II. Compensation for Interconnected Traffic between LECs and CMRS Providers' Networks
  A. Compensation Arrangements
  1. Existing Compensation Arrangements
  2. General Pricing Principles
  3. Pricing Proposals (Interim, Long Term, Symmetrical)
  B. Implementation of Compensation Arrangements
  1. Negotiations and Tariffing
  2. Jurisdictional Issues
III. Interconnection for the Origination and Termination of Interstate Interexchange Traffic
IV. Application of These Proposals
V. Responses to Initial Regulatory Flexibility Analysis
VI. Other

Each new section should begin on a new page, and should be labeled with the name of the filing party, identification of whether the document is an initial comment or a reply comment, the docket number, filing date, and number and name of the outline section addressed (although formal legal headers are unnecessary for section headings). No pages need be submitted for issues that a party chooses not to address. Arguments that conceptualize issues in a manner that does not fit into the segments listed above may be included in the ''Other'' section.

D. Ordering Clauses

90. Accordingly, it is ordered that, pursuant to sections 1, 4, 201–205, 215, 218, 220, 303(r) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 215, 218, 220, 303(r) and 332, a notice of proposed rulemaking is hereby adopted.

91. It is further ordered that, the Secretary shall send a copy of this

notice of proposed rulemaking, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (1981).

List of Subjects

47 CFR Part 20

Radio.

47 CFR Part 61

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–1974 Filed 1–31–96; 8:45 am]

BILLING CODE 6712–01–U

47 CFR Part 76

[CS Docket No. 95–184; FCC 95–504]

Telecommunications Inside Wiring, Customer Premises Equipment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission invites comments on whether certain telephone and cable inside wiring rules should be harmonized or otherwise changed in light of the evolving and converging telecommunications marketplaces. This item will assist the Commission in creating a record necessary to its ultimate design of rules in this area.

DATES: Comments are due on or before March 18, 1996 and reply comments are due on or before April 17, 1996.

FOR FURTHER INFORMATION CONTACT: Larry Walke, (202) 416–0847, or Rick Chessen, (202) 416–1166.

SUPPLEMENTARY INFORMATION: The text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Washington DC 20037.

Notice of Proposed Rulemaking

I. Introduction

1. The Commission issues this *Notice of Proposed Rulemaking* (''*NPRM*'') to consider changes in our telephone and cable inside wiring rules and policies in light of today's evolving and converging telecommunications marketplace. Because this proceeding will consider the issue of parity between our telephone and cable inside wiring rules, we are granting a petition for rulemaking (RM 8380) filed jointly by the Media Access Project, the United States Telephone Association and Citizens for a Sound Economy Foundation (collectively, ''MAP''), to the extent that MAP urges the Commission to establish a proceeding to consider making cable home wiring rules the same as those governing telephone inside wiring. We also note that, concurrently with the adoption of this *NPRM,* we issue a *First Order on Reconsideration and Further Notice of Proposed Rulemaking* in MM Docket No. 92–260 regarding our cable home wiring rules under Section 16(d) of the Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''), Pub. L. No. 102–385, 106 Stat. 1460 (1992), 47 U.S.C. 521, *et seq.* We incorporate the record in MM Docket No. 92–260 herein by reference.

2. We expect that at least some consumers may soon have a choice of two or more telecommunications service companies providing telephony, data, video programming and other services. Through this *NPRM,* we seek comment on whether and how we should revise our current telephone and cable inside wiring rules to reflect these new realities and promote competition, by ensuring that the Commission's inside wiring rules continue to facilitate the development of new and diverse services for the American public. In particular, and as described more fully below, we seek comment on whether it is technically and competitively desirable to create a uniform set of inside wiring rules that would apply to telephone companies and cable operators alike, or, in the alternative, that would apply according to the technical characteristics of the service—e.g., broadband or narrowband—or the type of wiring used—e.g., fiber optics, coaxial cable or twisted-pair wiring.

II. Inside Wiring Issues

A. Demarcation Point

1. *Background.* 3. Section 16(d) of the 1992 Cable Act directs the Commission to ''prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.'' The Commission's regulations implementing Section 16(d) provide that, when a customer voluntarily terminates service, the cable operator must give that subscriber the opportunity to acquire the wiring before the operator removes it. The subscriber may purchase the wiring inside his or her premises up to the demarcation point. The cable wiring demarcation point serves such multiple purposes as defining (1) the location at which the subscriber may control the internal home wiring if he or she owns it; (2) the point at which an alternative multichannel video programming service provider would attach its wiring to the subscriber's wiring in order to provide service; and (3) the point from which the customer has the right to purchase cable home wiring upon termination of service. The demarcation point for cable home wiring in single unit installations is set at (or about) 12 inches outside of where the cable wire enters the subscriber's premises. The demarcation point for multiple dwelling units is set at (or about) 12 inches outside of where the cable wire enters the subscriber's individual dwelling unit.

4. In multiple dwelling unit buildings, cable wiring configurations fall into two categories: loop-through and non-loop-through. In a loop-through cable wiring system, a single cable provides service to multiple subscribers such that every subscriber on the loop must receive the same cable service. Generally, in a non-loop-through configuration, each subscriber has a dedicated line (a ''drop'') running to his or her premises from a common ''feeder line.'' Only the wiring extending from the demarcation point to inside the subscriber's premises constitutes home wiring; thus, the drop wiring from the demarcation point out to the feeder line does not constitute home wiring. The feeder line is the source of video programming signals for everyone in the multiple dwelling unit building. A ''tap'' or ''multi-tap'' is a passive device, installed where the drop meets the feeder, that extracts portions of the signal strength in the feeder and distributes individual portions to subscribers. The strength of the signals within the feeder decreases each time the signals encounter a tap. In addition, the cable's electrical characteristics cause the strength of the signals to diminish as the signals pass through the coaxial cable. As a result of the signal strength lost through taps and its passage through coaxial cable, periodic amplification is often required within

the multiple dwelling unit building to maintain good picture quality. Amplification is accomplished by installing amplifiers at pre-designed intervals along the feeder based upon the number of taps and the length of coaxial cable within the multiple dwelling unit building.

5. With respect to telephone wiring, in 1990, the Commission amended the definition of the telephone demarcation point for simple inside wiring, *inter alia,* to ''assure that it [would] not be at a significant distance from where [the] wiring enters the customer's premises.'' *Report and Order and Further Notice of Proposed Rule Making* in CC Docket No. 88–57, 5 FCC Rcd 4686, 4692 (1990) 53 FR 9952 (March 28, 1988) (''*Telephone Inside Wiring Report and Order*''), *recon. pending.* Accordingly, the Commission's rules set the telephone wiring demarcation point for new and existing single unit installations (where there is no protector) at a point within 12 inches of where the telephone wire enters the customer's premises—i.e., up to 12 inches inside the home. The telephone demarcation point in existing multiple dwelling unit buildings is determined in accordance with the carrier's reasonable and nondiscriminatory standard operating practices. For new multiple dwelling unit buildings, including additions, modifications and rearrangements of existing wiring, the telephone company may establish a standard operating practice of placing the demarcation point at the minimum point of entry (usually the basement of the building). If the telephone company does not establish such a practice, the owner of a multiple dwelling unit building may determine the location of the demarcation point or points. Finally, in contrast with cable inside wiring, individual telephone lines typically run from the basement in multiple dwelling unit buildings (where the demarcation point is usually located) to each individual subscriber's dwelling unit.

6. In another Commission proceeding involving the setting of the cable network demarcation point, some alternative multichannel video programming providers argue that the demarcation point in multiple dwelling unit buildings should be located ''at that point outside a subscriber's premises and within the common areas of the multiple dwelling unit where existing wiring is first readily accessible'' for increased access and subscriber convenience. On the other hand, some cable operators argue that these proposals to move the demarcation point for multiple dwelling units are not precise enough because such a point could vary from building to building, and that such proposals are contrary to the plain language of the statute. Cable operators in the same proceeding argued that moving the cable demarcation point would severely restrict their ability to compete to provide telephony and advanced telecommunications services even if a subscriber chose a competitor's video services. Moreover, the cable operators asserted that consumers would benefit from additional broadband wires to their premises, since they could then have the flexibility of receiving different broadband services from different providers, rather than simply choosing which single provider's package to receive.

2. *Request for Comment.* 7. We seek comment on whether we should establish a common demarcation point for wireline communications networks—regardless of whether such networks are broadband or narrowband, or cable or telephony services. Sound reasons for creating a common demarcation point may exist. For example, in a world in which cable and telephony services are provided over a single broadband wire, a common demarcation point could make logical and technical sense. On the other hand, there may be technical and practical constraints on setting a common demarcation point. For example, if we set the demarcation point for multiple dwelling units at the minimum point of entry (usually in the basement), there may be concerns about the expense, disruption, and additional space required to install individual broadband wires and amplifiers to each unit, as well as the removal of any existing common wiring. Moreover, it also raises the issue of who the ''customer'' is—the landlord or the tenant—who is entitled to control the wiring. Altering the cable demarcation point so that it is farther away from the subscriber's individual unit would also raise questions about compensation for the wire between the current cable demarcation point and any amended demarcation point. For instance, if a subscriber already owns the cable home wiring up to the current demarcation point, and the Commission moves the demarcation point to the minimum point of entry, how would the cable operator be compensated for the additional wiring if the subscriber wished to purchase it? On the other hand, if the subscriber elected not to purchase the additional wiring in this scenario, would the cable operator then have the right to remove that portion of the wiring? Alternatively, if we require a common demarcation point that is closer to each subscriber, such as where the existing cable wiring demarcation point is located, this could subject the currently unregulated telephone wiring between the minimum point of entry and the customer's premises to regulation. We seek comment on where, if we establish a common demarcation point for cable and telephony services, we should establish such a common demarcation point. We also seek comment on whether, if we do not create a common demarcation point, we should continue to establish demarcation points based on the services provided over facilities (i.e. telephony or cable), or whether we should create demarcation points based upon the nature of the ultimate facilities used to deliver the service (i.e. narrowband termination facilities or broadband termination facilities).

8. We seek comment on whether and how our wiring rules can be structured to promote competition both in the markets for multichannel video programming delivery and in the market for telephony and advanced telecommunications services, and if it will affect our goal of promoting the development of advanced telecommunications services and competition for those services. In addition, we seek comment on whether, and if so, how, the selection of a demarcation point for either network should depend upon the technical characteristics of the wiring and the current design considerations for telephone and cable services.

9. *Single Dwelling Units.* We seek comment on the effect of changing the telephone demarcation point to mirror the cable demarcation point, and on the effect of changing the demarcation point for cable, which presently does not employ protectors, to mirror the telephone demarcation point. Finally, we seek comment on the consequences of permitting broadband service providers to choose where to locate the network demarcation point, within a range of 12 inches outside the customer's premises and 12 inches inside the customer's premises.

10. *Multiple Dwelling Units.* We seek comment on the effect of changing the telephone network demarcation point to mirror the cable demarcation point, and on whether the current cable and telephony demarcation points give reasonable access to competitive providers of either narrowband or broadband services, or whether it would better promote competition and otherwise be in the public interest to require that the demarcation points for broadband and narrowband networks be placed at a common point or at the point at which the broadband or

narrowband line becomes dedicated to an individual subscriber's use.

11. We seek additional comment on the competitive effect and consumer impact of keeping or changing the current cable demarcation point—not only on the video programming delivery marketplace, but on the broader telecommunications services market. Because we are concerned, however, that the current cable demarcation point may be impeding competition in the video services delivery marketplace, we intend to resolve this issue expeditiously.

12. We recognize that numerous other factors may affect the proper location of the cable network's demarcation point, as well as one's control over cable inside wiring and cable service generally. For example, single-family row units in condominiums or other residential settings may be provided cable service via a single, central access point, which may generate many of the same issues concerning the network demarcation point as are present in vertical multiple dwelling unit buildings. We seek comment on other factors related to the architecture of multiple dwelling unit premises that can affect the location of the demarcation point. We also seek comment on the consequences of changing the demarcation point or points, under one of the approaches described above, in light of the many various architectural settings in which subscribers may reside. The Commission also seeks information on any technical constraints on moving either network's demarcation point.

B. Connections

1. *Background.* a. *Cable Service Wiring.* 13. An important technical consideration in the delivery of cable service and the connections employed in the technology used to deliver service, is the risk of cable signal leakage. Cable systems often deliver cable signals over the same frequencies as many over-the-air licensees, including air traffic control and police and fire safety communications. The Commission has established specific restrictions on cable operators' use of radio frequencies in order to reduce the potential for interference caused by cable leakage. Another important technical consideration is the quality of the signal delivered to the subscriber's terminal. Our rules require a minimum signal level at the subscriber's terminal to ensure that adequate levels are delivered to the television set or video cassette recorder and that a good quality picture is delivered. Signal strength can be lessened by the use of poor cable, signal splitting for additional television sets, improper termination and improper attachments of and to customer-owned premises equipment.

b. *Telephone Connection.* 14. By contrast, signal leakage interfering with over-the-air communications has not been a regulatory concern for telephone service because the transmission of telephony requires only a fraction of the signal power used to transmit video programming, and telephone signals are carried over a much narrower, as well as a different, portion of frequency spectrum than aeronautical communications. Rather, the overall purpose of our telephone wiring regulations is to ensure that equipment connected to the telephone network and the methods used to make those connections do not cause harm to the telephone network or telephone company employees. Harm, as defined in our rules, includes: electrical hazards to telephone company personnel, damage to telephone company equipment, malfunction of telephone company billing equipment, and degradation of service to persons other than the user of the subject terminal equipment, his calling or called party. 47 CFR 68.3. The Commission has determined that allowing customers access to carrier-installed wiring on their premises for the purpose of connecting simple inside wiring will not impair the ability of carriers to provide adequate service to the public. The Commission has found little inherent risk that a plug/jack arrangement will be installed incorrectly, or if actually installed incorrectly, will cause harm to the network.

2. *Request for Comment.* 15. We expect that broadband common carrier services will be delivered over the same aeronautical and public safety frequencies, and at similar levels of power, as are current cable television signals. Therefore, the same concerns regarding interference with over-the-air communications that we currently encounter only with traditional cable service may be implicated. We seek comment on the best method of extending our signal leakage limits that are currently applied only to traditional cable service to others who provide service over broadband facilities. Our cable signal leakage limits are based on individual leakage levels as well as maximum allowable cumulative leakage levels and frequency separations from over-the-air users. We solicit comment on whether these requirements are sufficient or should be changed to safeguard against interference by any broadband service provider. We also request comment on whether our cable signal quality standards should be extended to other broadband video signal providers or whether, in a future competitive environment, quality standards may be unnecessary because signal quality will be one of the factors highlighted by broadband providers in competing for business.

16. Finally, we note that underlying all of the discussion and proposals outlined in this item is a concern for system integrity, including any increased risk of signal leakage or decrease in signal quality. We thus seek comment generally on how any new or revised regulatory approaches proposed in this *NPRM* may impact upon these considerations.

3. *Means of Connection.* a. *Background.* 17. The Commission's common carrier rules define the technical specifications for any jacks that interface with the telephone network. The rules state that ''any jack installed by the telephone company at, or constituting, the demarcation point shall conform to Subpart F of 47 CFR Part 68. Subject to the requirements of section 68.213 of our rules, connection of wiring and terminal equipment to the telephone network may be through a jack conforming to Subpart F or by direct attachment to carrier installed wiring.*.*.*.'' This standardization ensures that network integrity is maintained and protects telephone company employees, facilitates the installation of equipment by non-telephone company employees, and promotes competition for inside wiring services and telephone customer premises equipment.

18. Even though the Commission does not have specific rules governing the type of connectors used by the cable industry, operators almost exclusively employ ''F-type connectors'' for connection between coaxial wire and equipment, which, in part, are designed to prevent signal leakage. These F-type connectors are installed at the ends of coaxial cable in order to attach the wiring to customer premises equipment such as televisions, videocassette recorders and set-top boxes.

b. *Request for Comment.* 19. We seek comment on whether the Commission should adopt technical requirements for standard jacks and connectors for broadband or narrowband networks. If standards are necessary, how should factors such as electronics and the physical features of the jack or connector be addressed in designing such standards? All responses to this and the above inquiries should address the relative need for standards for protectors, jacks and connectors that

will maintain system integrity (i.e., picture and audio quality, signal reliability, minimal signal leakage), while giving other providers ease of connection and thus facilitate competition among telecommunications services providers.

20. We solicit comment on whether the Commission should establish technical standards for connections to cable networks or broadband services, where multiple services are delivered over a single wire. We note that a single standard may facilitate competition among providers by standardizing and simplifying the type of connection all providers must use. In the alternative, we seek comment on whether we should require that all connections to either the telephone network or cable systems use only the jacks meeting Commission standards or their technical equivalent.

C. Regulation of Simple and Complex, and Residential and Non-Residential Wiring

1. *Background.* a. *Telephone Provisions: Simple vs. Complex Wiring.* 21. The degree to which the Commission regulates telephone inside wiring depends largely on whether the subscriber requires simple wiring or complex wiring to receive service. Simple inside wiring includes all one and two line telephone wiring on the customer's side of the demarcation point, and is often called ''non-system premise wiring'' or ''customer premise wiring.'' Complex wiring, also called ''intrasystem wiring,'' includes all wiring of three or more twisted pairs and its associated components (e.g., connecting blocks, terminal boxes, conduit) located on the customer's side of the demarcation point that connects telephones, facsimile machines, modems, and other devices to each other or to the common equipment of a private branch exchange (''PBX'') or key system, when this wiring is inside a building or between a customer's buildings located on the same or contiguous property not separated by public property.

22. Most single dwelling units require only simple wiring, while multiple dwelling units and commercial settings require complex intrasystem wiring. We have not allowed customers to connect to the public telephone network with complex wiring other than through a telephone company-provided jack. In the interstate jurisdiction, we have deregulated the installation and maintenance of both simple and complex inside wire. In the intrastate jurisdiction, however, we have allowed the states to regulate the prices, terms and conditions on which simple inside wire services are offered to the public.

b. *Cable Service Provisions.* 23. As described above, our cable inside wiring rules address three primary areas: (1) technical standards; (2) the disposition of wiring after termination of service; and (3) rates for the wiring installation and maintenance. First, the Commission's technical standards apply only to wiring that a cable operator installs and maintains. This caveat does not affect the Commission's standards concerning signal leakage, however, because these requirements must be met regardless of who provides the final service link to the individual subscriber or who actually receives payment from subscribers for cable service.

24. Second, rules adopted pursuant to Section 16(d) of the 1992 Cable Act governing the disposition of wiring upon termination of service apply only to cable wiring installed by cable operators in residential dwelling units. Both the House and Senate Reports and the 1992 Cable Act clearly identify Section 16(d) as applying to home wiring—i.e., wiring ''inside the home.'' Third, rates for equipment used to receive residential cable service, including inside wiring, are regulated by the local franchising authority pursuant to rules the Commission has promulgated under the 1992 Cable Act.

2. *Request for Comment.* 25. We anticipate that telecommunications service providers in the future will provide both telephony and video programming services, as well as other services. These services may be delivered over multiple wires or over a single broadband wire. We believe that separate regulatory regimes for telephone and cable inside wiring may impede the delivery and possibly development, of broadband and other services to the public because the differing schemes may cause needless confusion for providers and consumers. Therefore, we seek comment on whether the Commission can and should harmonize the definitions within the common carrier and cable rules with regard to simple versus complex wiring; and residential versus non-residential wiring.

26. We also seek comment on whether the complex telephone wiring configurations and cable inside wiring configurations employed in multiple dwelling unit buildings or non-residential settings, respectively, are similar, and if so, whether this similarity means that complex telephone wiring and similarly employed cable inside wiring should be subject to similar rules. Would our telephone wiring rules, cable wiring rules, or some combination of both, be most appropriate? We seek comment on the optimal regulatory regime for wiring used to deliver both telephony and video programming as well as other services, i.e., the complex versus simple dichotomy, our cable wiring regulations, or some other approach. For example, would it be sensible to explore treating different types of cable inside wiring differently based on their technical characteristics, similar to the complex versus simple distinction in the regulation of telephone wiring? In addition, we seek comment on regulating wiring based on some other approach, such as the type of wiring used (i.e., twisted copper pair, coaxial or fiber optic). In this vein, would it be appropriate to establish individual simple and complex wiring definitions for each type of wiring? Finally, we seek comment on how any changes in our rules concerning the above aspects of wiring may affect system integrity and reliability.

27. We seek comment on how any changes in our rules concerning these aspects of wiring may affect signal leakage and signal quality. We also seek comment on how any of the above changes to our rules may affect competition in the telephone and cable markets.

D. Customer Access to Wiring

1. *Cable Wiring Provisions.* 28. Section 16(d) of the 1992 Cable Act requires the Commission to ''prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.'' The Commission's regulations implementing Section 16(d) provide that, when a customer voluntarily terminates cable service, the cable operator may not remove the cable home wiring unless it has first given that subscriber the opportunity to acquire the wiring at its per-foot replacement cost and the subscriber declines. If the subscriber declines to purchase the wiring, the operator must remove the wiring within 30 days (now seven business days) or make no subsequent attempt to remove it or restrict its use. This rule does not apply where the subscriber already owns the home wiring. The current cable home wiring rules do not require cable operators to permit subscribers to provide and install their own cable home wiring, or to move or rearrange operator-owned cable home wiring.

2. *Telephone Provisions.* 29. The Commission has deregulated the installation and maintenance of both complex and simple telephone inside

wire. As explained above, we first acted with regard to the installation of complex wiring, which is ''new intrasystem wiring installed with new CPE systems.'' Since we had deregulated the installation of new CPE systems in *Computer II, Amendment of Section 64.702 of the Commission's Rules and Regulations*, Final Decision, 77 FCC2d 384, 45 FR 31319 (May 13, 1980) (''*Computer II*''), *modified on reconsideration*, 84 FCC2d 50 (1980), *further modified on reconsideration*, 88 FCC2d 512 (1981) it was inconsistent to have complex wiring installed under tariff. Therefore, to foster competition in complex wiring installation, we deregulated the installation of complex wiring in the same way and on the same basis as we had deregulated CPE in *Computer II*. We subsequently deregulated the installation of simple inside wiring and maintenance of all inside wiring, effective January 1, 1987. Through these actions, we intended to make the cost-causative customer bear the costs of connecting CPE, including inside wiring, to the telephone network and, thus, to produce immediate cost savings that would be passed on to ratepayers.

30. To complete the deregulation of inside wire, the Commission prohibited telephone companies from imposing restrictions on inside wire that would prevent customers from removing, replacing, rearranging or maintaining inside wire using sources of their own choosing. In addition, we precluded the telephone companies from requiring customers to purchase or to pay a charge for using inside wire that had been previously installed or maintained under tariff.

3. *Request for Comment.* 31. We tentatively conclude that there is no reason to change our rules giving consumers the right to access their narrowband wiring inside the demarcation point, whether that wiring is used to provide voice, video or data services. We seek comment on this tentative conclusion. We also seek comment on whether the Commission should establish rules that give consumers the right to provide and to install their own broadband inside wiring and to access broadband wiring (for purposes of, for example, installing additional outlets, performing maintenance or reconfiguring existing wiring) on their premises which has been installed and is owned by the broadband service provider. In particular, we seek comment on whether consumers should have such a right if: (a) the broadband wire carries both cable and common carrier services (''joint use''); or (b) the broadband wire carries cable services only.

32. Access to broadband inside wiring *prior* to termination of service would allow consumers to select who will install and maintain their broadband wire (e.g., someone other than the cable operator, such as a commercial contractor, or the consumer himself or herself). The resulting competition in the wiring marketplace might also reduce the amount of maintenance fees and service charges a subscriber pays to the broadband service provider.

33. In this context, we ask whether and how broadening the cable rules to establish the subscribers' right to provide and to install their own cable inside wiring and to access cable operator-owned inside wiring would (a) promote consumer choice; (b) foster competition among multichannel video programming service providers, thus lowering prices and encouraging technological innovation; and (c) facilitate the provision of more than one type of telecommunications service (e.g., telephone and video) by different types of companies. We also request comment generally on how to protect against signal leakage and to maintain the signal quality delivered over the coaxial cable if subscribers are given pretermination access to broadband cable inside wiring.

34. We seek comment on whether the Commission has authority under the Communications Act to promulgate cable inside wiring rules requiring pretermination access, both when the wiring is used jointly by cable and common carrier services and when the wiring is used solely for cable services. In particular, we ask whether, in the joint use context, the inside wiring used to transmit interstate telecommunications services is so inseparable from the wiring used to transmit the cable services that consumers should have the right to access the wiring under the Commission's current telephone rules. We note that, while the telephone rules may provide a useful model for broadband wiring, cable operators may not be regulated as common carriers ''by reason of providing any cable service.'' We believe, however, that simply applying rules to cable that are the same as, or similar to, the telephone inside wiring rules is not tantamount to treating cable operators as common carriers. We nevertheless request comment on this interpretation of the statute. We also ask commenters to address the issue of whether permitting pretermination access would constitute an impermissible ''taking'' of property without just compensation, in violation of cable operators' Fifth Amendment rights.

35. We also ask whether the best way to ensure that subscribers are permitted to own and to access cable inside wiring, whether by buying it or installing it prior to termination of service, might be to deregulate cable inside wiring rates, much the same as telephone inside wiring has been deregulated. We ask whether the introduction of competition in the markets for cable inside wiring would force cable operators to permit pretermination access where there is subscriber demand. We seek comment on whether we have the statutory authority to deregulate cable home wiring rates. We direct the parties to Section 16(d) of the 1992 Cable Act and Section 623(b) of the Communications Act, as amended, and note that Congress specifically expressed a ''[p]reference for competition'' over regulation in setting rates for cable services. In addition, we seek comment on whether and on what basis the Commission should establish a transition period, during which rates would remain regulated, while the market for cable home wiring becomes competitive. We also ask for comment on whether, if the Commission is statutorily required to regulate cable inside wiring rates, we should provide incentives to cable operators to permit pretermination access, for example, by providing that, if an operator allows subscribers to access the home wiring prior to termination of service, or sells the wiring to the subscriber (upon installation or any time thereafter), the operator may then charge the subscriber whatever rate it wishes to reconfigure or perform maintenance on the wiring.

36. In order to promote the efficient transfer of service, we thus seek comment on establishing a requirement that subscribers own their inside wiring upon installation of cable service, on a going-forward basis. We note that our current rules, as Title VI requires, already permit cable operators to recover the costs of inside wiring installation. We solicit comment on whether we should require cable operators to sell the wiring upon installation of cable service. We seek comment on the best way to achieve this. For example, should we require cable operators to include the cost of the wiring as well as the cost of labor to install the wiring in the cost of installation of cable service? We seek comment on whether it is necessary for the Commission to detail how these costs are to be recovered, *e.g.*, in a one-time initial payment, or on a monthly basis for some maximum number of

months. Under the latter approach, we would intend for full ownership of the wiring to be vested in the subscriber once the subscriber pays any portion of the costs associated with the wiring. We understand that cable operators would need time to implement this approach; therefore, we seek comment on requiring cable operators to adopt this approach as of some date certain in the future, *e.g.*, six, 12 or 18 months following adoption of the requirement.

37. Alternatively, we seek comment on whether the Commission can and should create a presumption that the subscriber owns his or her cable inside wiring. As we noted in the *Cable Wiring Order*, the subscriber often already owns the home wiring, such as where the subscriber was charged for the wiring upon installation, or, at least in the case of single family dwellings, where the applicable state or local law treats the wire as a ''fixture,'' or the previous occupant already owned the home wiring, either by purchasing the wiring upon voluntary termination of service or because the operator failed to remove it within the time allowable under our rules. We seek comment on whether this presumption could be rebutted by the cable operator or be an irrebuttable presumption. If rebuttable, we seek comment on what kind of showing cable operators would have to make to overcome a presumption that the subscriber owns his or her home wiring, what type of records operators would be required to keep, any constitutional or statutory impediments to such a presumption, and when such a process would occur. We also seek comment on our concern that, at least for existing wiring, operators may possess inadequate records to demonstrate ownership. If irrebuttable, we seek comment on how such a relinquishment of ownership rights could be structured consistent with constitutional and statutory requirements, and what deadlines should be imposed in order to permit cable operators to obtain full compensation for their inside wiring costs.

4. *Compensation for Wiring.*—a. *Background.* 38. The Commission's rules compensate cable operators for their costs of installing the subscriber's cable home wiring. With respect to telephone wiring, as previously noted, the Commission deregulated the installation of simple inside wiring and the maintenance of all inside wiring, effective January 1, 1987. We then precluded carriers from imposing restrictions upon the removal, replacement, rearrangement or maintenance of inside wiring.

39. Currently, cable operators must elect a uniform installation charge that is based upon either the product of the hourly service charge and the person hours of the visit, or the product of the hourly service charge and the average hours spent per installation visit. Further, the rules prescribe a per-foot replacement cost upon termination of service. We stated in the *Cable Wiring Order* that the per-foot charge should be based on the replacement cost of coaxial cable in the community, and gave as an example for which the cost was approximately six cents per foot.

b. *Request for Comment.* 40. We seek comment on whether our current rules for compensation of broadband cable should change if, for example, we move the demarcation point for cable systems to the minimum point of entry in multiple dwelling unit buildings or some other point, including some point farther than 12 inches from the subscriber's premises. We also seek comment on providing compensation to telephone companies for the cost of an additional segment of what is now a customer's narrowband telephone loop, if it is determined that the demarcation point for the telephone network will be placed 12 inches outside the customer's premises, or at some point inside of the minimum point of entry.

E. Dual Regulation

1. *Background.* 41. As described above, the Commission has established rules to govern the technical performance of cable systems, the disposition of wiring upon termination of service, and subscriber rates for the installation, maintenance and sale of equipment necessary to receive cable service generally, including inside wiring. The local franchising authority generally is the first line of enforcement of all such rules, while the Commission will, either informally or by rule, resolve disputes that may arise between a cable operator and the local franchising authority.

42. Because most local telephone exchange facilities are used jointly to provide interstate and intrastate telephone services, they are regulated by both federal and state regulatory authorities. The extent of dual regulation depends generally on whether the Commission has preempted state authority to regulate exclusively a particular aspect of telephone service rates.

43. With respect to simple wiring services, however, we have maintained certain federal standards with which state regulations must comply. For example, if a state chooses to regulate the rates under which telephone companies provide simple inside wiring, the state regulations must require the telephone companies to unbundle the inside wiring charges from the charges for basic transmission services. Moreover, a state may not establish rules that will impede the competitive provision of telephone inside wiring. In addition, any state regulations governing the terms or conditions under which inside wire services are provided must be consistent with the technical standards set forth in Part 68 of our rules.

44. In addition, the Commission has instituted a system to monitor state regulatory programs for inside wire to assess their impact on our goal of achieving full competition in the market for inside wire services. We require a telephone company with annual operating revenues of $100 million or more to file with the Commission a copy of any state or local statute, rule, order, or other document that regulates, or proposes to regulate, the price or prices the telephone companies charge for inside wire services.

2. *Request for Comment.* 45. We first solicit comment on whether it may be necessary to harmonize these respective disparate systems of regulation as the similarity increases between the technology employed to deliver telephony and video programming. For example, as stated previously, it is possible that in the future both telephony and video programming will be delivered over a single wire; thus, an issue may arise over which dual system regulation should govern, i.e, Commission-local franchising authority (cable service) or Commission-state public utility commission (telephone service). We seek comment on whether the Commission has legal authority to change or harmonize these dual systems of regulation to accommodate the situation where broadband or multiple services are provided over a single wire or multiple wires, and how this could be accomplished. Similarly, if we were to adopt a common demarcation point for both cable and telephone networks, confusion also might arise over which relationship between local and federal authorities should govern. Therefore, we also seek comment generally on any conflicts that may arise from unifying these disparate systems of dual regulation between cable and telephone service for inside wiring, in light of the definition of the network or system demarcation points as well as the other standard technical requirements for the two services.

46. We also ask commenters to discuss the role of non-federal regulation in setting the prices, terms

and conditions for telecommunications services inside wiring. Currently, many local regulators regulate cable wiring. We seek comment on whether the non-federal regulation of telephone wiring should be altered if the delivery systems for telephony and video programming become more similar. With respect to federal involvement, difficulties also may arise in determining the proper level of our involvement in the oversight of wiring as telephone and video programming technologies advance. In this context, we seek comment on whether we should expand or decrease our monitoring of charges for inside wiring used to provide video service, or increase or decrease our oversight of telephone inside wiring.

F. Service Provider Access to Private Property

1. *Background.* 47. We also wish to examine the right of various service providers to obtain access to private property, such as multiple dwelling unit buildings, private housing developments, and office buildings. If, in the interest of competitive parity, we ultimately were to adopt a uniform demarcation point for the networks of all companies providing similar services, that goal may not be achieved if all providers do not have equal access to the customer's wiring at the demarcation point.

48. Telephone companies traditionally have gained access to private property through private easements and contracts with the property owners. As common carriers, they also have the use of public right-of-ways and can exercise the power of eminent domain. Thus, when they seek to provide telephone service, there has been little objection to their right to access private property.

49. Cable operators' right to gain access to private property has been less clear. Currently, approximately thirteen states have passed some form of cable mandatory access statute, including Connecticut, Delaware, Florida, Illinois, Kansas, Maine, Minnesota, Nevada, New Jersey, New York, Pennsylvania, Rhode Island and Wisconsin.

2. *Request for Comment.* 50. Parity of access rights to private property may be a necessary predicate for any attempt to achieve parity in the rules governing cable and telephone network inside wiring, because without access to the premises, the inside wiring rules and proposals discussed in this *NPRM* will not even be implicated. An inequality in access can unfairly benefit one provider over another. In addition, we have received conflicting information about the ability of alternative service providers to obtain the permission of multiple dwelling unit building owners: (a) to enter the building at all; (b) to run a common feeder line up a stairwell, for example, to a security closet or lockbox; and (c) to run individual wiring down hallways from the lockbox to individual units. We seek comment on the legal and practical impediments faced by telecommunications service providers in gaining access to subscribers. For instance, as discussed above, moving the cable demarcation point farther away from the subscriber, such as back to the lockbox, could alleviate much of the access problem if building owners primarily objected to running additional wiring down the hallways; on the other hand, moving the demarcation point may have little impact if building owners have been denying alternative providers access to the property altogether.

51. We seek comment on the above discussion and several other specific issues related to provider access. First, we seek comment on the current status of the law regarding access to private property by cable operators and telephone companies. For instance, what type(s) of access do state statutes granting mandatory access for cable operators provide? Who qualifies for such mandatory access (e.g., only franchised cable operators)? Have cable operators been successful in obtaining access to private property under any other statutory or common law theories? Similarly, what type(s) of access to private property do the states grant to telephone companies? Is such access related to the type of service provided or to the identity of the company? Do the statutes permit telephone companies to obtain access to private residences, such as multiple dwelling units, or simply to run their lines across private property? In other words, can an individual resident in a multiple dwelling unit obtain telephone service over the property owner's objection?

52. We also seek comment on whether and how the rules governing access to customers' premises should be harmonized in a world in which the cable operator, the telephone company and possibly others may be offering telephony, video and other services over a single wire. Can and should cable operators that offer telephony be permitted to use the telephone companies' easements to obtain access to private property? Can and should cable operators or telephone companies, if they have an easement to provide telephony, also be permitted to provide video or other services using the same easement? Should it make a difference whether the services are provided over one wire or two? We seek comment on whether allowing a company that possesses an easement for one service to rely on that easement in providing another service would constitute an impermissible ''taking'' without just compensation, in contravention of the property owner's Fifth Amendment rights.

53. Finally, we request comment on whether the Commission can and should attempt to create access parity among service providers, and what our rules should say regarding the terms of such access. We also seek comment on any statutory or constitutional impediments to this goal. In particular, we ask commenters to address the concern that any right of access to private property may constitute an impermissible ''taking'' in violation of the property owner's Fifth Amendment rights. We realize that a number of these potential service providers are not common carriers and their right to access is not well established in state or federal law. We seek comment on the potential constraints this lack of common carrier status will have on the rules we prescribe.

G. Customer Premises Equipment

1. *Background.* 54. Telephone-related customer premises equipment (CPE) constitutes all telephone equipment located on the customer's side of the demarcation point, including private branch exchanges (PBXs), key systems, modems, and telephone handsets. In the Computer II Final Decision, we concluded that Title II regulation of CPE was no longer warranted. We found that deregulation ''fosters a regulatory scheme which separates the provision of regulated common carrier services from competitive activities that are independent of, but related to, the underlying utility service.'' Earlier decisions removed tariff provisions that restricted customers' rights to attach non-carrier provided CPE to the telephone network. Those earlier efforts culminated in a registration program that allows consumers to connect their own equipment to the network if the equipment conforms to certain technical standards and is properly registered with the Commission under Part 68 of our rules. These decisions confirmed the existence of broad consumer right under Sections 201(b) and 202(a) of the Act.

55. In *Computer II,* we were also concerned that carriers' practices of bundling CPE charges with charges for basic services could undermine our efforts to ensure that regulated service rates accurately reflected the costs of providing the associated service. Given

the variety of CPE products and suppliers, we were confident that our unbundling and detariffing of CPE would not adversely affect consumers.

56. Cable-related CPE, regulated under Part 15 of the Commissions rules for emission and interference, generally includes equipment located on the customer's side of the demarcation point, such as television receivers (''TVs''), video cassette recorders (''VCRs''), remote control units, and set-top converter descramblers (''set-top boxes''). We note that most of the current cable-related CPE mentioned, such as TVs and VCRs, were designed and can function without connection to cable systems, whereas practically all telephone-related equipment is specifically designed to be connected to telephone networks. As such, a number of issues may exist regarding the connection of customer-owned CPE to cable system equipment, including loss of CPE features and requiring a set-top box to receive cable service. While set-top boxes are generally provided by the cable operator, TVs and VCRs are generally provided by the subscriber. In addition, we anticipate that future CPE used by cable and telephone subscribers may include computers, component decoders and tuning devices, and facilities used for interactive services. Often, cable operators protect their extended basic and premium services with proprietary scrambling techniques. In these cases, the subscriber must obtain the descrambler converters from the cable operator. Our current cable regulations do not specifically address the rights of cable subscribers to connect CPE to cable operators' facilities. Therefore, unlike equipment used to receive common carrier telephone service, there is some ambiguity as to whether cable operators may prohibit or limit subscribers' ability to connect CPE to operators' facilities for services other than cable service.

57. The 1992 Cable Act directed the Commission to establish standards that relied upon actual cost to set the rates charged to lease equipment used by subscribers to receive basic cable service. Only some cable-related CPE are subject to this statutory provision, including set-top boxes, remote control units, connections for additional outlets, and inside wiring. We note that the 1992 Cable Act also directed the Commission to ensure compatibility between consumer equipment and cable systems, consistent with the need to prevent theft of cable service, so that cable subscribers will be able to enjoy the full benefits of both the programming available on cable systems and the functions available on their television receivers and VCRs.

58. What is more, and as stated previously, we anticipate that the technologies used to deliver and receive cable and telephone service may become more similar. For example, future video programming and telephony may not only be delivered over a single broadband wire, but future subscribers may receive both services using a single piece of equipment, such as a computer modem or a ''videophone.'' It is also possible that the subscriber may only need one piece of customer premises equipment to interact with both services, such as an enhanced set-top box or stand-alone interface unit. In addition, multi-use devices may be developed that allow subscribers to receive video, data and voice services, akin to the present functions of a telephone modem used to reach computer networks. In such cases, the disparate regulatory schemes for cable-related CPE and telephone-related equipment could cause confusion for service providers as well as subscribers and regulators. For example, service providers may be uncertain whether rates for such equipment are subject to regulation. Similarly, subscribers may be uncertain of their rights to connect CPE to the network(s) over which they receive service.

2. *Request for Comment.* 59. *Interconnection.* Since the Commission deregulated telephone CPE, the Commission's goals of promoting marketplace entry by communications equipment vendors, increasing competition among these vendors, and producing cost savings for both consumers and common carriers have largely been fulfilled. We believe that exploring and possibly establishing the rights of consumers to provide and connect unregulated CPE to cable operator facilities can similarly benefit cable subscribers. We also believe that creating a record on these and other related issues will enable the Commission to establish simple and pro-competitive rules setting forth the rights and responsibilities of both service providers and subscribers with respect to CPE.

60. We therefore seek comment on the costs and benefits of harmonizing or revising our rules to accommodate better the possible convergence of technologies used to receive and to interact with network-delivered video programming and telephony. We seek comment on whether to allow customers to use and connect their cable-related CPE, such as set-top boxes, to cable facilities while allowing cable operators to protect their legitimate security interests and to provide new and innovative services without inhibiting the use of existing customer CPE. We recognize that new and innovative services often require proprietary equipment which may not be compatible with existing CPE. We seek comment on the technical and economic impediments to requiring new services to be compatible with existing CPE. We also solicit comment on whether we should establish a common regulatory scheme to govern both cable and telephone network CPE.

61. We also understand that the technology of future CPE may take a variety of forms (e.g., component decoders, computer modems). We note that technologies to deliver voice and video service on an integrated basis continue to evolve. We seek comment on whether we should tailor our rules to accommodate different types of CPE technologies and functions. For example, perhaps there should be a different set of rules for cable-related equipment that is designed to both transmit and receive, than for equipment that is designed only to receive. We tentatively conclude that consumers should be able to connect cable-related equipment, as well as purchase this equipment, and seek comment on how the Commission may best achieve this goal. We note that in the 1992 Cable Act, Congress recognized that there are a number of compatibility problems between cable service and consumer electronics equipment. Congress was particularly concerned about the inability of cable subscribers to use the special features and functions of their TV sets and VCRs when receiving cable signals which are most often precluded by the use of a cable supplied set-top box. These features include picture-in-picture, timed recordings and the ability to view one channel while recording another. Presently, the Commission is awaiting finalization of a standard for a Decoder Interface connector. This standard is being developed by the Cable-Consumer Electronics Compatibility Advisory Group in conjunction with the Joint Engineering Committee of the Electronics Industry Association and NCTA. We believe that special rules must govern subscribers' access to and connection of CPE with access control functions that are consistent with these efforts. In this context, we seek comment on how best to protect against theft of cable service or other damage to cable operators' facilities if we were to change our rules to accommodate the possible convergence of technology used to deliver and receive cable and

telephone service. We also note that the Commission has taken steps to ensure enhanced compatibility between consumer electronics equipment and cable operators' facilities. *See In the Matter of Implementation of Section 17 of the Cable Television Consumer Protection and Competition Act of 1992: Compatibility Between Cable Systems and Consumer Electronics Equipment*, ET Docket 93–7, 9 FCC Rcd 1981 (1994), 58 FR 7205 (Feb. 2, 1993). The regulations adopted in the equipment compatibility proceeding will allow consumers to utilize customer premises equipment offered by a variety of suppliers, including the cable operator, in a competitive market.

62. We are not proposing to change our *Computer II* framework for equipment connected to narrowband facilities, or for equipment used in conjunction with Title II services but not Title VI services. We tentatively conclude that CPE used in conjunction with Title VI services provided over narrowband facilities should also be governed by *Computer II*, and seek comment on this tentative conclusion, including any security concerns that are raised by such a conclusion.

63. We note that Part 68 of the Commission's rules establishes standards for telephone-related CPE and an equipment registration program that are designed to ensure the reliability of telephone networks. Network reliability and safety must be maintained as entities other than traditional telephone companies begin to offer both voice and video services that use or interconnect with the public switched network. We thus seek comment on whether the Commission should enlarge the current registration program to cover cable-related CPE that use or interconnect with the public switched network, if such interconnection is to occur. We further seek comment on whether an equipment registration program similar to the existing Part 68 program should be established for manufacturers of equipment used with future services, both broadband and narrowband, to ensure the integrity and reliability of these networks. Finally, we seek comment on how such a program should be structured to define the rights of both the service providers and the network subscribers, while ensuring the development and maintenance of a competitive CPE market. Such policies might include adoption of standards, for example, such as the Commission has adopted for telephone equipment in Part 68 of its rules.

64. *Equipment Rates.* We believe that improving cable subscribers' rights to acquire and provide their own cable-related CPE would benefit subscribers. Such rules would give subscribers the choice of purchasing, installing or maintaining CPE themselves, or having a vendor other than the cable operator do so. This should promote marketplace entry by communications equipment vendors and facilitate competition among these vendors, as we have seen in the telephone context. A competitive marketplace should lead to the development of innovative types of CPE, improved performance of existing and new CPE, and improved maintenance of CPE.

65. As previously stated with respect to equipment rates, the 1992 Cable Act directed the Commission to establish a rate-setting methodology for equipment used to receive basic cable service, including set-top boxes, remote control units, wiring, and additional cable outlets. In response, the Commission's regulations link maximum permitted rates for regulated equipment to operators' actual costs of providing the equipment. We note, however, that Congress exhibited a clear preference for competition over regulation in the setting of rates for cable service and equipment.[1] We believe that deregulating rates for currently regulated CPE would be in the public interest if the marketplace for CPE becomes competitive, and seek comment on this tentative conclusion. We wish to make clear that we are not proposing to re-regulate currently deregulated telephone CPE rates. We also seek comment on whether the Commission has authority to deregulate cable CPE rates under the Communications Act, and specifically whether the Commission possesses such authority under Sections 623(b), 632(b), 4(i), and 1. We further seek comment on whether specifically deregulating rates for currently regulated CPE would be inconsistent with the 1992 Cable Act, given that market forces in the resulting marketplace should determine rates. Finally, we seek comment on whether it would be necessary to establish a transition period prior to the deregulation of currently regulated CPE rates, until a competitive marketplace for CPE exists.

III. Initial Regulatory Flexibility Act Analysis

66. Pursuant to Section 603 of the Regulatory Flexibility Act, the Commission has prepared the following initial regulatory flexibility analysis (''IRFA'') of the expected impact of these proposed policies and rules on small entities. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *NPRM*, but they must have a separate and distinct heading designating them as responses to the IRFA. The Secretary shall cause a copy of the *NPRM*, including the IRFA, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. § 601 *et seq*. (1981).

67. The Commission issues this *NPRM* to consider changes in our telephone and cable inside wiring rules and policies in light of today's evolving and converging telecommunications marketplace.

68. *Objectives.* To explore the development of new cable and telephony service rules in the following areas in light of converging technology: demarcation point, means of connection, simple and complex residential and non-residential wiring, installation, maintenance, access and ownership of inside wiring, compensation, dual regulation and service provider access.

69. *Legal Basis.* Action as proposed for this rulemaking is contained in Section 1, 4(i), 201–205, 214–215, 220, 623, and 632 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 201–205, 214–215, 220, 543 and 552.

70. *Description, Potential Impact and Number of Small Entities Affected*. The proposals, if adopted, will not have a significant effect on a substantial number of small entities.

71. *Reporting, Recordkeeping and Other Compliance Requirements*. None.

72. *Federal Rules which Overlap, Duplicate or Conflict with these Rules*. None.

73. *Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with Stated Objectives*. None.

IV. Procedural Provisions

74. *Ex parte Rules—Non-Restricted Proceeding.* This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in Commission's rules. *See generally* 47 CFR §§ 1.1202, 1.1203, and 1.1206(a).

75. To file formally in this proceeding, you must file an original plus four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments and

[1] 47 U.S.C. § 543(a)(2).

reply comments, you must file an original plus nine copies. Comments are due on March 18, 1996, and reply comments are due on April 17, 1996. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W. Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal Communications Commission, 1919 M Street N.W., Washington D.C. 20554.

V. Ordering Clauses

76. It is ordered that, pursuant to Sections 1, 4(i), 201–205, 214–215, 220, 623, and 632 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 201–205, 214–215, 220, 543 and 552, NOTICE IS HEREBY GIVEN of proposed amendments to Part 76, in accordance with the proposals, discussions, and statement of issues in this *Notice of Proposed Rulemaking*, and that COMMENT IS SOUGHT regarding such proposals, discussion, and statement of issues.

77. It is further ordered that the Secretary shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. §§ 601 *et seq.* (1981).

78. It is further ordered that the Petition for Rulemaking filed by the Media Access Project, *et al.*, to the extent it concerns making cable home wiring rules the same as those governing telephone inside wiring, is Hereby granted.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2169 Filed 1–31–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 112995B]

Negotiated Rulemaking Advisory Committee on Tuna Management in the Mid-Atlantic

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent; request for comments.

SUMMARY: Commerce is considering establishing a new advisory committee under the Federal Advisory Committee Act (FACA). The committee's purpose would be to negotiate issues leading to a proposed rulemaking that will resolve the gear conflict between recreational and commercial fishermen competing for tuna off the Mid-Atlantic coast. The committee would consist of representatives of parties with a definable stake in the outcome of the proposed rule.

DATES: Comments must be submitted on or before March 4, 1996.

ADDRESSES: Comments should be submitted to the Highly Migratory Species Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown, 301–713–2347.

I. Introduction

In accordance with the Presidential directive of March 4, 1995, the report of the National Performance Review, entitled ''Creating a Government that Works Better and Costs Less'', and Executive Order 12866 to utilize Negotiated Rulemaking (NRM), the Secretary of Commerce (Secretary) pledged to utilize the technique of NRM, where appropriate. In March 1995, NOAA suggested, and Commerce accepted, the National Fishing Association's petition as the basis for such a procedure.

The project's stated purpose is to resolve the gear conflict between the recreational and commercial fishermen competing for access to tuna fishery areas off the Mid-Atlantic coast. The project will bring together a balanced mix of parties and interests to negotiate at the pre-proposal stage. The goal of the negotiation is to reach consensus on proposals and/or language that will be the basis of the rule. Negotiations will be conducted through an advisory committee chartered under FACA. All procedural requirements of the Administrative Procedure Act and other applicable statutes continue to apply.

A senior official selected by NMFS will act as the designated Federal officer on behalf of NMFS. Individuals representing definable interests in the fishing industry, environmental community, academia, governmental and quasi-governmental entities will negotiate on behalf of their constituencies. A neutral mediator will keep the process moving smoothly and assist in resolving disputes.

NMFS is optimistic that this process can produce better regulations, use all parties' time and resources more wisely, and reduce litigation and uncertainty.

II. Procedures and Guidelines

A. Procedures for Establishing an Advisory Committee

NMFS has prepared a charter and has initiated the requisite consultation process. Only upon the successful completion of this process and the receipt of the approved charter will Commerce form the committee and commence negotiations.

B. Participants

The negotiating group should not exceed 21 participants. Participants must be willing to negotiate in good faith and be authorized to do so. One purpose of this notice is to help determine whether the rule that NMFS is developing would substantially affect interests not adequately represented by the proposed participants (listed later in this notice). NMFS does not believe that each potentially affected organization or individual must necessarily have its own representative, but each interest must be adequately represented. The intent is to have a group that as a whole reflects a proper balance and mix of interests.

The National Marine Fisheries Service will provide the necessary administrative support, including technical assistance, for the proposed committee.

C. Requests for Representation

If, in response to this notice, an additional individual or representative of an interest requests membership or representation in the negotiating group, NMFS, in consultation with the facilitator, will determine whether that individual or representative should be added to the group. The Secretary will make the final decision based on whether the individual or interest would be substantially affected by the rule or whether the individual is already adequately represented in the negotiating group.

D. Tentative Schedule

NMFS plans to hold the first meeting of the advisory committee in March 1996, with three additional meetings to follow, scheduled at 2-week intervals or until consensus is reached on a proposed rule, whichever occurs first. Another committee meeting may be necessary after publication of the proposed rule if the comments received reflect that substantial controversy

exists regarding the proposed rule. In the event that the committee is unable to reach consensus, NMFS will proceed to develop its own proposal with the insight gained through the negotiation process.

E. Potential Interests and Participants

NMFS has tentatively identified the following list of possible interests and parties:

4Recreational Fishery Interests
- American Sportfishing Association
- Billfish Foundation
- Coastal Conservation Association
- Confederation of Associations of Atlantic Charterboat Captains
- Delaware Captain's Association
- Jersey Coast Anglers' Association
- Maryland Saltwater Sportfishermen's Association, Inc.
- Mystic Marlin and Tuna Club
- National Coalition for Marine Conservation
- National Fishing Association
- New York Sportfishing Federation
- Ocean City Marlin & Tuna Club
- Oregon Inlet Fishing Center
- Rhode Island Marine Trade Association
- Thousand Fathom Club of South Jersey
- United Boatmen of New York and New Jersey

Commercial Fishery Interests
- Blue Water Fishermen's Association
- East Coast Fisheries Federation
- East Coast Tuna Association
- General Category Tuna Association
- National Fishing Institute
- Purse Seiner Owners and Operators

Shore-side Industry Interests
- A&J
- American Sportfishing Association
- Associated Fisheries of Maine
- Etheridge
- Great Circle
- National Marine Manufacturers' Association
- Reel Seat Tackle
- Seafarers International Union
- Other dealers, processors, harvesters

Representatives with Special Experience in Fishery Issues
- Economist
- Fishery Biologist
- Gear and Technical Specialist
- Social Scientist

Representatives of the Environmental Community
- Center for Marine Conservation
- National Audubon Society
- Ocean Wildlife Campaign
- World Wildlife Fund

Representatives of Government or Quasi-government
- Atlantic States Marine Fisheries Commission
- Caribbean Fishery Management Council
- Commerce's Marine Fisheries Advisory Committee
- Mid-Atlantic Fishery Management Council
- New England Fishery Management Council
- South Atlantic Fishery Management Council
- U.S. International Commission for the Conservation of Atlantic Tunas Advisory Committee

Comments and suggestions on this tentative pool of representatives are invited. The listing of a potential group does not necessarily mean that the group has been chosen or has agreed to participate. NMFS will use this pool to develop a list of participants for the Advisory Committee. Those who feel that their interests are not adequately represented by the forementioned list may apply to be included or nominate another organization or individual to represent their interests. The application should include:

1. The name of the applicant or nominee and a description of the interest such person shall represent;

2. Evidence that the applicant or nominee is authorized to represent parties related to the interest the person proposes to represent;

3. A written commitment that the applicant or nominee shall actively participate in good faith in the development of the rule under consideration; and

4. The reasons that the organizations specified in this notice do not adequately represent the interests of the person submitting the application or nomination.

Authority: 16 U.S.C. 971 *et seq.*

Dated: January 25, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 96–1944 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 22
Thursday, February 1, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

January 26, 1996.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 and to Department Clearance Officer, USDA, OIRM, Ag Box 7630, Washington, DC 20250–7630. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

Food and Consumer Service

Title: Evaluation of the USDA Team Nutrition Pilot Implementation.

Summary: The evaluation will assess the impact of the Team Nutrition Pilot on student behavior and motivation relative to healthy food choices.

Need and Use of the Information: The evaluation will be used to provide information to guide future implementation of the Team Nutrition Program. It will also identify the factors that are critical to successful outcomes.

Description of Respondents: Individuals or households; Not-for-profit institutions.

Number of respondents: 16,919.

Frequency of Responses: Reporting—One Time.

Total Burden Hours: 7,435.

Agricultural Marketing Service

Title: Reporting and Recordkeeping Requirements for Imported Peanuts.

Summary: The Agricultural Act of 1949 has been amended to require that all peanuts in the domestic market meet the same quality requirements established for domestically produced peanuts. The new requirements will require importers to file copies of documentation proving compliance with quality and handling requirements.

Need and Use of the Information: The documents submitted will show compliance with handling procedures and quality and food safety requirements established for the import regulation. The intent is to ensure that all peanuts in the domestic market are of good quality.

Description of Respondents: Business or other for-profit.

Number of Respondents: 25.

Frequency of Responses: Recordkeeping, Reporting—On occasion.

Total Burden Hours: 177.

Emergency processing of this submission has been requested by February 2, 1996.

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 96–2067 Filed 1–31–96; 8:45 am]

BILLING CODE 3410–01–M

Forest Service

Wildcat River Advisory Commission

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Wildcat River Advisory Commission will meet at the Jackson Elementary School in Jackson, New Hampshire, on March 20, 1996, April 17, 1996 and May 15, 1996. The purpose of these meetings is to continue with the development of a Draft River Management Plan for administration of the designated Wild and Scenic Wildcat River. The Wild and Scenic Rivers Act requires the establishment of an advisory commission to advise the Secretary of Agriculture on administration of the river. The public is encouraged to attend the meeting and may provide written comment on the plan to the commissioners c/o the district office.

DATES: The meetings will be held March 20, 1996, April 17, 1996 and May 15, 1996 at 7:30 p.m.

ADDRESSES: The meetings will be held at the Jackson Elementary School, Route 16B, Jackson, New Hampshire.

Send written comments to Terrence O. Clark III, Saco Ranger District, White Mountain National Forest, 33 Kancamagus Highway, Conway, NH 03818.

FOR FURTHER INFORMATION CONTACT:

Terrence O. Clark III, Saco Ranger District, (603) 447–5448.

Dated: January 22, 1996.

Terence O. Clark III,

Acting Forest Supervisor.

[FR Doc. 96–2119 Filed 1–31–96; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Kansas Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Kansas Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:30 p.m. on February 16, 1996, at the Gateway Tower II, 400 State Avenue, Suite 908, Kansas City, Kansas 66101. The purpose of the meeting is to plan for an upcoming community forum.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TTY 913–551–1413). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 24, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–2120 Filed 1–31–96; 8:45 am]

BILLING CODE 6335–01–M

Agenda and Notice of Public Meeting of the Maryland Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 4:00 p.m. on Friday, February 23, 1996, at the Marriott Hotel, 110 South Eutaw Street, Baltimore, Maryland 21201. The purpose of the meeting is to discuss current developments in civil rights, choose a project topic and plan its project activity for fiscal year 1996.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TTY 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, January 24, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96–2121 Filed 1–31–96; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Supplement 17 to the Antiboycott Regulations

Pursuant to Articles 5, 7, and 26 of the Treaty of Peace between the State of Israel and the Hashemite Kingdom of Jordan and implementing legislation enacted by Jordan, Jordan's participation in the Arab economic boycott of Israel was formally terminated on August 16, 1995.

On the basis of this action, it is the Department's position that certain requests for information, action or agreement from Jordan which were considered boycott-related by implication now cannot be presumed boycott-related and thus would not be prohibited or reportable under the regulations. For example, a request that an exporter certify that the vessel on which it is shipping its goods is eligible to enter Hashemite Kingdom of Jordan ports has been considered a boycott-related request that the exporter could not comply with because Jordan has had a boycott in force against Israel (see 43 FR 16969, April 21, 1978). Such a request from Jordan after August 16, 1995 would not be presumed boycott-related because the underlying boycott requirement/basis for the certification has been eliminated. Similarly, a U.S. company would not be prohibited from complying with a request received from Jordanian government officials to furnish the place of birth of employees the company is seeking to take to Jordan, because there is no underlying boycott law or policy that would give rise to a presumption that the request was boycott-related.

U.S. persons are reminded that requests that are on their face boycott-related or that are for action obviously in furtherance or support of an unsanctioned foreign boycott are subject to the regulations, irrespective of the country of origin. For example, requests containing references to ''blacklisted companies'', ''Israel boycott list'', ''non-Israeli goods'' or other phrases or words indicating boycott purpose would be subject to the appropriate provisions of the Department's antiboycott regulations.

Dated: January 24, 1996.

John Despres,

Assistant Secretary for Export Enforcement.

[FR Doc. 96–2115 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Docket 7–96]

Foreign-Trade Zone 75—Phoenix, AZ, Application for Subzone Status, Abbott Manufacturing, Inc., Plant (Infant Formula, Adult Nutritional Products) Casa Grande, Arizona

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Phoenix, grantee of FTZ 75, requesting special-purpose subzone status for export activity at the infant formula and adult nutritional products manufacturing plant of Abbott Manufacturing, Inc., (AMI) (a subsidiary of Abbott Laboratories, Inc.), located in Casa Grande, Arizona. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 22, 1996.

The AMI plant (590,000 sq.ft. on 161 acres) is located at 1250 West Maricopa Highway, Casa Grande (Pinal County), Arizona, approximately 50 miles south of Phoenix. The facility (340 employees) is used to produce milk and sugar-based infant formula and adult nutritional products for export and the domestic market; however, zone procedures would be used only for production for export. The production process involves blending foreign, ex-quota milk powder and foreign, ex-quota sugar with domestically-sourced oils, soy isolates, vitamins and minerals, and EZO ends. Other foreign-sourced items that may be used in the export-blending activity include: cocoa powder, pharmaceutical grade fat emulsions, vitamins and minerals, and caseinates. All foreign-origin milk and sugar would be re-exported as finished blended products.

Zone procedures would exempt AMI from quota requirements and Customs duty payments on the foreign milk and sugar products used in the export activity. The application indicates that subzone status would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 1, 1996. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 16, 1996).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, Phoenix Plaza, Suite 970, 2901 N. Central Avenue, Phoenix, AZ 85012

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW., Washington, DC 20230–0002.

Dated: January 24, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–1999 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket A(32b1)–1–96]

Foreign-Trade Zone 87—Lake Charles, LA, Subzone 87A, Conoco Inc.; Request for Modification of Restrictions (Oil Refinery Complex)

A request has been submitted to the Foreign-Trade Zones Board (the Board)

by the Lake Charles Harbor and Terminal District, grantee of FTZ 87, pursuant to § 400.32(b)(1) of the Board's regulations, for modification of the restrictions in FTZ Board Order 406 (53 FR 52455, 12/28/88) authorizing Subzone 87A at the crude oil refinery complex of Conoco Inc., in Lake Charles, Louisiana. The request was formally filed on January 24, 1996.

The Board Order in question was issued subject to certain standard restrictions, including one that required the election of privileged foreign status on incoming foreign merchandise. The zone grantee has requested that the latter restriction be modified so that Conoco would have the option available under the FTZ Act to choose non-privileged foreign (NPF) status on foreign refinery inputs used to produce certain petrochemical feedstocks and by-products, including the following: benzene, ethane, methane, propane, other hydrocarbon mixtures, propylene, butane, butylene, petroleum coke, sulfur, and sulfuric acid.

The request cites the FTZ Board's recent decision in the Amoco, Texas City, Texas case (Board Order 731, 60 FR 13118, 3/10/95) which authorized subzone status with the NPF option noted above. In the Amoco case, the Board concluded that the restriction that precluded this NPF option was not needed under current oil refinery industry circumstances.

Public comment on the proposal is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is March 30, 1996.

A copy of the application and accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: January 24, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–1997 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 799]

Grant of Authority for Subzone Status; Ben Venue Laboratories, Inc. (Pharmaceutical Products), Bedford, Ohio

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Cleveland-Cuyahoga County Port Authority, grantee of Foreign-Trade Zone 40, for authority to establish special-purpose subzone status at the pharmaceutical manufacturing facility of Ben Venue Laboratories, Inc., in Bedford, Ohio, was filed by the Board on May 31, 1995, and notice inviting public comment was given in the Federal Register (FTZ Docket 29–95, 60 FR 31142, 6–13–95); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby authorizes the establishment of a subzone (Subzone 40G) at the plant of Ben Venue Laboratories, Inc., in Bedford, Ohio, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 23rd day of January 1966.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–1996 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 77–95]

Foreign-Trade Zone 168—Fort Worth, Texas; Application for Expansion, Extension of Comment Period

The comment period for the pending application of the Dallas/Fort Worth Maquila Trade Development Corporation, grantee of FTZ 168, requesting authority to expand its zone (Docket 77–95, filed 11/21/95, 60 FR 61528, 11/30/95), is further extended to March 1, 1996, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions should include 3 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue, N.W., Room 3716, Washington, D.C. 20230.

Dated: January 24, 1996.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 96–1998 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with December anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received a request to revoke one antidumping finding in part.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 353.22(a) and 355.22(a) (1994), for administrative reviews of various antidumping and countervailing duty orders and findings with December anniversary dates. The Department also received a timely request to revoke in

part the antidumping findings on elemental sulphur from Canada.

Initiation of Reviews

In accordance with sections 19 CFR 353.22(c) and 355.22(c), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. The Department is not initiating an administrative review of any exporters and/or producers who were not named in a review request because such exporters and/or producers were not specified as required under section 353.22(a) (19 CFR 353.22(a)). We intend to issue the final results of these reviews not later than December 31, 1996.

	Period to be reviewed
Antidumping Duty Proceedings:	
Brazil:	
Silicomanganese	
A–351–824	
Companhia Paulista De Ferroligas	06/17/94–11/30/95
Canada:	
Elemental Sulphur	
A–122–047	
Mobil Oil Canada, Ltd., Husky Oil Ltd	12/01/94–11/30/95
Japan:	
Polychloroprene Rubber	
A–588–046	
Denki Kaguku, K.K., Denki Kaguku Koggo, K.K./Hoei Sangyo Co., Ltd., Mitsui Bussan K.K., Showa Neoprene K.K./Hoei Sangyo Co., Ltd., Suzugo Corporation, Toyo Soda Manufacturing Co., Ltd., Toyo Soda Manufacturing Co./Hoei Sangyo Co., Ltd	12/01/94–11/30/95
Mexico:	
Porcelain-on-Steel Cooking Ware	
A–201–504	
Cinsa, S.A. de C.V., Esmaltaciones de Norte America, S.A. de C.V	12/01/94–11/30/95
The People's Republic of China:	
Certain Cased Pencils	
A–570–827	
Beijing Pencil Factory, Dalian Pencil Factory, Donghua Pencil Factory, Harvin Pencil Factory, Jiangsu Pencil Factory, Jinan Pencil Factory, Juihai Pencil Factory, Julong Pencil Factory, Quindao Pencil Factory, Shenyiang Pencil Factory, Anhui Stationery Company, Ltd., (aka Beng Bu Pencil Factory)	12/21/94–11/30/95
Songnan Pencil Factory, China First Pencil Company, Ltd., Shanghai Three Star Stationary Com., Shanghai Foreign Trade Corporation, Guandong Stationary & Sporting Goods I/E Corporation, Shanghai Lansheng Co., Ltd. (aka Stationary & Sporting Goods I/E Corporation), Shanghai Machinery & Equipment I/E Corporation, Tianjin Pencil Factory, Xinbang Joint Venture Pencil Factory, AEMPAC Systems (Hong Kong), Anhui I/E Group Corporation, Anhui Ligh Industrial Products I/E Corp., Anhui Provincial I/E Corporation, Applause Products, Atico International, Atico Overseas, Beijing Ligh Industrial Products I/E Corporation, CS Container Line (Hong Kong), Cargo Service (Hong Kong), Cargo Systems, Changzhou Foreign Economic Technical & Trading Company, Changzhou Foreign Trade Group, Chiangshu Foreign Trading, China Fujian Foreign Trade Center, China National Light Industrial Products I/E Corporation (all branches), China North Industrias Tianjin Corporation, Dalian Light Industrial Products I/E Corp., China Shenzhen SEZ Foreign Trade, EI Ocean (Hong Kong), Far East Enterprises, Fuji Industrial (Hong Kong), Gansu Provincial Machinery, Golden Way Trading Company, Guangzhou Foreign Trade Group, Hianan Provincial Foreign Trade, Haiwang Enterprises Company, Ltd., Han Maritime	12/21/94–11/30/95
Jin Hai Jei Air International Forwarding, Heilongjiang Light Industrial Products I.E Corporation, Ideal Consolidators (Hong Kong), Ideal Ocean Lines (Hong Kong), Inteks Transport International, Jacky Maeder (Hong Kong), Jiangsu Light Industrial Products I/E Group Corporation, Jilin Provincial Machinery & Equipment I/E Corporation, King Sun (Hong Kong), Kwok Luen Plastic Manufacturing, Lailon Enterprises (Hong Kong), LEP Guangzhou Delegation Office, LEP Transport International, Liaoning Light Industrial Products I/E Corp., Licken Industrial (Hong Kong), Maritime International, Onan Shipping (Hong Kong), Orwave, Panalpina, Panalpina (Hong Kong), Perpetual Product Development, Po Shing Industrial, Premier Shipping, Qingdao Light Industrial Products I/E Corporation, Regent C&C Shanghai Office, Regent Express, Shandong Light Industrial Products I/E Corporation, Shantou Light Industrial Products I/E Corporation, Shantou Stationary & Sporting Goods I/E Corporation, Shanxi Light Industrial Products I/E Corporation, Shenyiang Light Industrial Products I/E Corporation, Shum Yip (Shenzen) Industry & Trade Development Corporation	12/21/94–11/30/95
Translink Transportation, Sichuan Light Industrial Products I/E Corporation, Sui Jun International (Hong Kong), THI (Hong Kong), The Merton Company, Ltd. (Hong Kong), Tianjin Beifing Corporation, Tianjin Stationary & Sporting Goods I/E Corporation, Tony Trading (Hong Kong), Trade Power (Taiwan), Trinity Mark Industries, Tru Blue Products, UT Consolidators (Hong Kong), Wah Luen Stationary Supplies, Y.K. Shipping International, Yangjiang Light Industrial Products I/E Corporation, Zhenjiang Foreign Trade Corporation	12/21/94–11/30/95
All other exporters of certain cased pencils from the People's Republic of China are conditionally covered by this review.	
The People's Republic of China:	
Porcelain-on-Steel Cooking Ware	
A–570–506	
Clover Enamelware Enterprise, Ltd., Lucky Enamelware Factory Limited	12/01/94–11/30/95
All other exporters of porcelain-on-steel cooking ware from the People's Republic of China are conditionally covered by this review.	
Taiwan:	
Certain Welded Stainless Steel Pipe	
A–583–815	
Ta Chen Stainless Pipe	12/01/94–11/30/95

	Period to be reviewed
Countervailing Duty Proceedings: None	

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

As explained in the memorandum from the Assistant Secretary for Import Administration dated January 11, 1996, due to the partial shutdown of the Federal Government from December 16, 1995 through January 6, 1996, the Department has exercised its discretion to toll this deadline for the duration of the partial shutdown. All deadlines have been extended by 22 days, i.e., one day for each day (or partial day) the Department was closed. This notice is published in accordance with the extended deadline for initiation of these reviews. The reviews will proceed in accordance with the normal statutory and regulatory deadlines.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1).

Dated: January 26, 1996.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–1994 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–427–801, A–428–801, A–475–801, A–588–804, A–485–801, A–559–801, A–549–801, A–412–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Thailand, and the United Kingdom; Extension of Time Limits of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limit of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for preliminary and final results in the administrative review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Thailand, and the United Kingdom covering the period May 1, 1994, through April 30, 1995, since it is not practicable to complete the reviews within the time limits.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Michael Rill or Richard Rimlinger, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce has received requests to conduct administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Thailand, and the United Kingdom. On June 19, 1995, the Department initiated these administrative reviews covering the period May 1, 1994, through April 30, 1995.

Due to the complexity of these cases it is not practicable to complete this review within the time limit mandated by section 751 (a) (3) (A) of the Tariff Act of 1930, as amended. Therefore, in accordance with that section, the Department is extending the time limits for the preliminary results to June 27, 1996, and for the final results to December 24, 1996.

The Department adjusted 28 days to the time limits due to the Government shutdowns, which lasted from November 14, 1995, to November 20, 1995, and from December 15, 1995, to January 6, 1996. See Memorandum to the file from Susan G. Esserman, Assistant Secretary for Import Administration, January 11, 1996.

Interested parties must submit applications disclosure under administrative protective order in accordance with 19 CFR 353.34 (b).

These extensions are in accordance with section 751 (a) (3) (a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675 (a)).

Dated: January 23, 1996

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 96–1995 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DS–P

[C–475–819, C–489–806]

Notice of Postponement of Final Countervailing Duty Determinations and Termination of Suspension of Liquidation: Certain Pasta From Italy and Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 1, 1996.

FOR FURTHER INFORMATION CONTACT: Vincent Kane (Italy) and Elizabeth Graham (Turkey), Office of Countervailing Investigations, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2815 and (202) 482–4105, respectively.

POSTPONEMENT OF FINAL DETERMINATIONS AND TERMINATION OF SUSPENSION OF LIQUIDATION: On October 17, 1995, we published the preliminary affirmative countervailing duty determinations with respect to certain pasta from Italy (60 FR 53739) and Turkey (60 FR 53747). On October 26, 1995, we published a notice of alignment of the final countervailing duty determinations with the final antidumping duty determinations of certain pasta from Italy and Turkey (60 FR 54847). The notice stated that the final countervailing duty determinations would be made on February 21, 1996.

On January 19, 1996, the notices of preliminary determination of sales at less than fair value and postponement of final determination for certain pasta from Italy and Turkey were published in the Federal Register. These notices stated that the final determinations in the antidumping duty investigations and the companion countervailing duty investigations would be made 135 days after the date of publication of the Department's preliminary determination in the antidumping cases, *i.e.*, June 3, 1996. Accordingly, the date for the final countervailing duty determinations for certain pasta from Italy and Turkey will be June 3, 1996.

In accordance with section 703(d) of the Act, the Department will direct the U.S. Customs Service to terminate the suspension of liquidation in the countervailing duty investigations on February 14, 1996, which is four months (120 days) from the date of publication of the preliminary determinations in these countervailing duty investigations. No cash deposits or bonds for potential countervailing duties will be required for merchandise which enters on or after February 14, 1996. The suspension of liquidation will not be resumed unless and until the Department publishes countervailing duty orders. We will also direct the U.S. Customs Service to continue to suspend liquidation of entries made between October 17, 1995, through February 13, 1996 until the conclusion of these investigations.

The U.S. International Trade Commission is being advised of this postponement of final determinations in accordance with section 705(d) of the Act and the termination of suspension of liquidation in accordance with section 703(f) of the Act. This notice is published pursuant to section 705(d) of the Act and 19 C.F.R. 355.20(c)(3).

Dated: January 24, 1996.

Barbara R. Stafford,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–1993 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DS–M

Export Trade Certificate of Review

ACTION: Notice of Application for an Amendment to an Export Trade Certificate of Review, Application No. 88–3A013.

SUMMARY: The Department of Commerce has received an application to amend an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to determining whether the Certificate should be amended. An original and five (5) copies should be submitted not later than 30 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as ''Export Trade Certificate of Review, application number 88–3A013.''

CISA Export Trade Group, Inc.'s (CISA ETC) original Certificate of Review No. 88–00013 was issued to CISA on October 19, 1988. Notice of issuance of the Certificate was published in the Federal Register on October 26, 1988 (53 FR 43253). Previous amendments to the Certificate were issued on March 2, 1990 (55 FR 23123, June 6, 1990) and on December 16, 1991 (57 FR 883, January 9, 1992).

Summary of the Application

Applicant: CISA Export Trade Group, Inc., 124 Fieldstone Drive, Venice, Florida 34292.

Contact: Pierre A. Dahmani, Legal Counsel, Telephone: (312) 876–0200.

Application No.: 88–3A013.

Date Deemed Submitted: January 18, 1996.

Proposed Amendment: CISA Export Trade Group, Inc. seeks to amend its Certificate to:

1. add the following companies as ''Members'' within the meaning of Section 325.2 (1) of the Regulations (15 CFR 325.2(1)): Borden, Inc./North American Resins, Westchester, Illinois; Delta Resins & Refractories, Inc, Milwaukee, Wisconsin; Eirich Machines, Inc., Gurnee, Illinois; Fargo Wear, Detroit, Michigan; Palmer Manufacturing Company, Springfield, Ohio; Vulcan Engineering Company, Helena, Alabama.

2. delete the following two companies as ''Members'' within the meaning of Section 325.2(1) of the Regulations (15 CFR 325.2(1)): Carrier Vibrating Equipment, Louisville, Kentucky; and Simplicity Engineering, Durant, Missouri.

Dated: January 25, 1996.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 96–2000 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–DR–P

National Technical Information Service

NTIS Advisory Board Meeting

AGENCY: National Technical Information Service, Technology Administration, U.S. Department of Commerce.

ACTION: Notice of Partially Closed Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Technical Information Service Advisory Board (the ''Board'') will meet on Thursday, February 22, 1996, from 9:00 a.m. to 4:00 p.m., and on Friday, February 23, 1996, from 9:00 a.m. to 4:00 p.m. The session on Friday, February 23, will be closed to the Public.

The Board was established under the authority of 15 U.S.C. 3704b(c), and was Chartered on September 15, 1989. The Board is composed of five members appointed by the Secretary of Commerce who are eminent in such fields as information resources management, information technology, and library and information services. The purpose of the meeting is to review and make recommendations regarding general policies and operations of NTIS, including policies in connection with fees and charges for its services. The agenda will include a progress report on NTIS activities, an update on the progress of FedWorld, and a discussion of NTIS' long range plans. The closed session discussion is scheduled to begin at 9:00 a.m. and end at 4:00 p.m. on February 23, 1996. The session will be closed because premature disclosure of the information to be discussed would be likely to significantly frustrate implementation of NTIS' business plans.

DATES: The meeting will convene on February 22, 1996, at 9:00 a.m. and adjourn at 4:00 p.m. and convene again on February 23, 1996, at 9:00 a.m. and adjourn at 4:00 p.m.

ADDRESSES: The meeting will be held in Room 2029 Sills Building, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

PUBLIC PARTICIPATION: The meeting will be open to public participation on February 22, 1996, and closed on February 23, 1996. Approximately thirty minutes will be set aside on February 22, 1996 for comments or questions from the public. Seats will be available for the public and for the media on a first-come, first-served basis. Any member of the public may submit written comments concerning the Board's affairs at any time. Copies of the minutes of the open session meeting will be available within thirty days of the meeting from the address given below.

FOR FURTHER INFORMATION CONTACT: Linda Lucas, NTIS Advisory Board Secretary, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 . Telephone: (703) 487–4636; Fax (703) 487–4093.

Dated: January 25, 1996.

Donald R. Johnson,

Director.

[FR Doc. 96–2047 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–04–M

National Oceanic and Atmospheric Administration

[I.D. 112995C]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of scientific research permit no. 867 (P540).

SUMMARY: Notice is hereby given that Dr. Frank Cipriano, Kewalo Marine Laboratory, 13 Ahui Street, Honolulu, HI 96813, has been issued a permit to obtain and/or import odontocete cetacean specimen material for ongoing study of cetacean molecular genetics.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment, in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4015), including the Pacific Area Office of NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/955–8831);

Director, Northwest Region (206/526–6150) and Director, National Marine Mammal Laboratory (206/526–4020), NMFS, 7600 Sand Point Way, NE, BIN C15700, Seattle, WA 98115;

Director, Alaska Region, NMFS, Federal Annex, P.O. Box 21668, Juneau, AK 99802 (907/586–7221); and

Director, Southeast Region, NMFS, 9450 Koger Blvd., St. Petersburg, FL 33702 (813/893–3141).

SUPPLEMENTARY INFORMATION: On October 12, 1995, notice was published in the Federal Register (60 FR 53170) that a request for a scientific research permit to take an unspecified number of cetacean species had been submitted by the above-named individual. The requested modification has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended, (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

Issuance of this modified permit as required by the Endangered Species Act of 1973 was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the Endangered Species Act.

Dated: January 25, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–2146 Filed 1–31–96; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of Information Collection.

SUMMARY: The Commodity Futures Trading Commission has submitted information collection 3038–0007, Regulation of Domestic Exchange-Traded Options to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. The information collection pursuant to this rule is in the public interest and is necessary for market surveillance.

ADDRESSES: Persons wishing to comment on this information collection should contact Jeff Hill, Office of Management and Budget, Room 3228, NEOB, Washington, D.C. 20502, (202) 395–7340. Copies of the submission are available from Joe F. Mink, Agency Clearance Officer, (202) 418–5170.

Title: Regulation of Domestic Exchange-Traded Options.

Control Number: 3038–0007.

Action: Extension.

Respondents: Business (excluding small business).

Estimated Annual Burden: 41,387 total hours.

Respondents	Regulation (17 CFR)	Estimated No. of respondents	Annual responses	Est. avg. hours per response
Business	Parts 33 and 16	190,420	230,782	50.57

Issued in Washington, D.C. on January 26, 1996.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 96–2012 Filed 1–31–96; 8:45 am]

BILLING CODE 6351–01–M

Applications of the Chicago Board of Trade as a Contract Market in Futures and Options on the Following Four Yield Differentials: 5-Year/2-Year, 5-Year/3-Year, 10-Year/3-Year and 30-Year/3-Year.

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in U.S. Treasury yield curve spread futures and

options on the following four yield differentials: 5-year/2-year, 5-year/3-year, 10-year/3-year and 30-year/3-year. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before March 4, 1996.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Reference should be made to the CBT U.S. Treasury yield curve spread contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., Washington, DC 20581, telephone 202–418–5277.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., N.W., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5097.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CBT, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st St., NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on January 26, 1996.

Blake Imel,

Acting Director.

[FR Doc. 96–2011 Filed 1–31–96; 8:45 am]

BILLING CODE 6351–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

AmeriCorps* National Civilian Community Corps' Availability for Collaboration With Eligible Service Organizations To Perform Community Service Projects

AGENCY: Corporation for National and Community Service.

ACTION: Notice of availability for collaboration.

SUMMARY: AmeriCorps* National Civilian Community Corps (A*NCCC), engages young men and women of all social, economic and educational backgrounds in the conduct of national service projects. AmeriCorps*NCCC's priority service areas include education, the environment, public safety, human needs and disaster relief. AmeriCorps*NCCC collaborates with private non-profit organizations, governmental entities at the Federal, State and local levels, and community based organizations dedicated to service. All interested and eligible organizations are encouraged to apply.

DATES: Proposals are accepted and reviewed on an ongoing basis and are approved taking into consideration compelling need, availability of funds and geographical distribution.

ADDRESSES: For interested organizations in Maryland, Delaware, New Jersey, Pennsylvania, New York, and District of Columbia contact: AmeriCorps*NCCC Northeast Region Campus, Attn: Mr. John Underwood—Director, P.O. Box 27, Perry Point, MD 21902–0027 (410) 642–2411 Ext. 6850.

For interested organizations in Alabama, Arkansas, Connecuticut, Florida, Georgia, Kentucky, Louisiana, Massachusetts, Mississippi, New Hampshire, North Carolina, Ohio, Puerto Rico, South Carolina, Tennessee, Vermont, Virgin Islands, Virginia, and West Virginia contact: AmeriCorps*NCCC Southeast Region Campus, Attn: Ms. Ruth Rambo—Regional Project Director, P.O. Box 150010, Charleston, SC 24415–0010, (803) 743–8640 Ext 3007.

For interested organizations in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming contact: AmeriCorps*NCCC Central Regional Campus, Attn: Ms. Dale Whyte—Regional Project Director, 1059 Yosemite Street—Bldg. 758, #261, Aurora, CO 80010–6002, (303) 340–7306.

For interested organizations in Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, Utah, and Washington contact: AmeriCorps*NCCC Western Region Campus, Attn: Mr. Charles Davenport—Regional Project Director, San Diego, CA 92133–1212, (619) 524–0728.

FOR FURTHER INFORMATION CONTACT: AmeriCorps*NCCC Headquarters, Attn; Mr. Rodger Hurley—National Project Coordinator, 1201 New York Avenue., 9th Floor, Washington, DC 20525, (202) 606–5000 Ext. 144.

SUPPLEMENTARY INFORMATION: The AmeriCorps*National Civilian Community Corps is a program operated by the Corporation for National and Community Service. The Corporation is a government organization which engages Americans of all ages and backgrounds in community-based service. This service addresses the nation's education, public safety, human, environmental and disaster response needs by achieving direct and demonstrable results. In doing so, the Corporation fosters civic responsibility, strengthens the ties that bind us together as a people, and provides educational opportunity for those who make a substantial commitment to service. Corpsmembers of the AmeriCorps*National Civilian Community Corps reside on facilities located in Maryland, South Carolina, Denver and San Diego. They travel to and conduct service projects in four regions of the country and live in temporary housing. Local support for housing and food for corpsmembers is a factor taken into account in project selection. Projects are ordinarily four to six weeks in duration and engage one team of twelve or so corpsmembers; some larger and longer projects are approved when there is a strong justification for doing so.

Dated: January 24, 1996.

Fred Peters,

*Senior Coordinator of Program Operations, AmeriCorps*NCCC.*

[FR Doc. 96–2148 Filed 1–31–96; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group C (Electro-Optics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Tuesday and Wednesday 6–7 February 1996.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. II § 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: January 26, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–2005 Filed 1–31–96; 8:45 am]

BILLING CODE 5004–04–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0094]

Request for Public Comments Regarding OMB Clearance Entitled Debarment and Suspension

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0094).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Debarment and Suspension. This OMB clearance currently expires on April 30, 1996.

DATES: *Comment Due Date: April 1, 1996.*

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0094, Debarment and Suspension, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano, Office of Federal Acquisition Policy, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

The FAR requires contracts to be awarded to only those contractors determined to be responsible. Instances where a firm or its principals have been indicted, convicted, suspended, proposed for debarment, debarred, or had a contract terminated for default are critical factors to be considered by the contracting officer in making a responsibility determination. This certification would require the disclosure of this information.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *30 minutes per subcontractor and 5 minutes per prime contractor* per response, including the time for reviewing instructions, searching exiting data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *1,100,000*; responses per respondent, *1*; total annual responses, *1,100,000*; preparation hours per response, *30 min. sub., 5 min. prime*; and total response burden hours, *91,667*.

Dated: January 26, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1979 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 900–0053]

Request for Public Comments Regarding OMB Clearance Entitled Permits, Authorities, or Franchises Certification

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0053).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Permits, Authorities, or Franchises Certification. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date: April 1, 1996.*

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0053,

Permits, Authorities, or Franchises Certification, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such, Office of Federal Acquisition Policy, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

This certification and copies of authorizations are needed to determine that the offeror has obtained all authorizations, permits, etc., required in connection with transporting the material involved. The contracting officer reviews the certification and any documents requested to ensure that the offeror has complied with all regulatory requirements and has obtained any permits, licenses, etc., that are needed.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *15* minutes for the first completion, *1* minute for subsequent completions, or an average of *5.7* minutes per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *1,106*; responses per respondent, *3*; total annual responses, *3,318*; preparation hours per response, *.094*; and total response burden hours, *312*.

Dated: January 24, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1982 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0054]

Request for Public Comments Regarding OMB Clearance Entitled U.S.-Flag Air Carriers Certification

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0054).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of currently approved information collection requirement concerning U.S.-Flag Air Carriers Certification. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date: April 1, 1996.*

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0054, U.S.-Flag Air Carriers Certification, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such, Office of Federal Acquisition Policy, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag carrier is available to provide such services. In the event that the contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the contractor shall include a certification on vouchers involving such transportation. The contracting officer uses the information furnished in the certification to determine whether adequate justification exists for the contractor's use of other than a U.S.-flag air carrier.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *15* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *150*; responses per respondent, *2*; total annual responses, *300*; preparation hours per response, *.25*; and total response burden hours, *75*.

Dated: January 24, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1983 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0055]

Request for Public Comments Regarding OMB Clearance Entitled Freight Classification Description

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0055).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Freight Classification Description. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date: April 1, 1996.*

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405, Please cite OMB Control No. 9000–0055, Freight Classification Description, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Peter O'Such, Office of Federal Acquisition Policy, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

When the Government purchases supplies that are new to the supply system, nonstandard, or modifications of previously shipped items, and different freight classifications may apply, offerors are requested to indicate the full Uniform Freight Classification or National Motor Freight Classification. The information is used to determine the proper freight rate for the supplies.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *10* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *2,640;* responses per respondent, *3;* total annual responses, *7,920;* preparation hours per response, *.167;* and total response burden hours, *1,323*.

Dated: January 24, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1984 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0057]

Request for Public Comments Regarding OMB Clearance Entitled Evaluation of Export Offers

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0057).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Evaluation of Export Offers. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date: April 1, 1996.*

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0057, Evaluation of Export Offers, in all correspondence.

FOR FURTHER INFORMATION CONTACT:

Mr. Peter O'Such, Office of Federal Acquisition Policy, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

Offers submitted in response to Government solicitations must be evaluated and awards made on the basis of the lowest laid down cost to the Government at the overseas port of discharge, via methods and ports compatible with required delivery dates and conditions affecting transportation known at the time of evaluation. Offers are evaluated on the basis of shipment through the port resulting in the lowest cost to the Government. This provision collects information regarding the vendor's preference for delivery ports. The information is used to evaluate offers and award a contract based on the lowest cost of the Government.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *30* minutes for the first completion, *10* minutes for subsequent completions, or an average of *15* minutes per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *100;* responses per respondent, *4;* total annual responses, *400;* preparation hours per response, *.25;* and total responses burden hours, *100*.

Dated: January 24, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1986 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0061]

Request for Public Comments Regarding OMB Clearance Entitled Transportation Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0061).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Transportation Requirements. This OMB clearance currently expires on February 28, 1996.

DATES: *Comment Due Date:* April 1, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0061, Transportation Requirements, in all correspondence.

FOR FURTHER INFORMATION CONTACT:

Mr. Peter O'Such, Office of Federal Acquisition Policy, GSA (202) 501–1759.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR Part 47 and related clauses contain policies and procedures for applying transportation and traffic management considerations in the acquisition of supplies and acquiring transportation or transportation-related services. Generally, contracts involving transportation require information regarding the nature of the supplies, method of shipment, place and time of shipment, applicable charges, marking of shipments, shipping documents and other related items. This information is required to ensure proper and timely shipment of Government supplies.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *23* minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *65,000*; responses per respondent, *5*; total annual responses, *325,000*; preparation hours per response, *.23*; and total response burden hours, *74,750*.

Dated: January 24, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1987 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0004]

Clearance Request Entitled Architect-Engineer and Related Services Questionnaire (SF–254)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0004).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Architect-Engineer and Related Services Questionnaire (SF 254). A request for public comments was published at 60 FR 57227, November 14, 1995. No comments were received.

DATES: *Comment Due Date:* March 4, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets NW., Washington, DC 20405. Please cite OMB Control No. 9000–0004, Architect-Engineer and Related Services Questionnaire (SF 254), in all correspondence.

FOR FURTHER INFORMATION CONTACT:

Mr. Jack O'Neill, Office of Federal Acquisition Policy, GSA (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

Standard Form 254 is used by all Executive agencies to obtain uniform information about a firm's experience in architect-engineering (A–E) projects. The form is submitted annually as required by 40 U.S.C. 541–544 by firms wishing to be considered for Government A–E contracts. The information obtained on this form is used to determine if a firm should be solicited for A–E projects.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *5,000*; responses per respondent, *7*; total annual responses, *35,000*; preparation hours per response, *1*; and total response burden hours, *35,000*.

OBTAINING COPIES OF JUSTIFICATIONS: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0004, Architect-Engineer and Related Services Questionnaire (SF 254), in all correspondence.

Dated: January 26, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1980 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0043]

Clearance Request Entitled Delivery Schedules

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0043).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Delivery Schedules. A request for public comments concerning this burden estimate was published at 60 FR 53916, October 18, 1995. No public comments were received.

DATES: *Comment Due Date: March 4, 1996.*

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW., Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0043, Delivery Schedules, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano, Office of Federal Acquisition Policy, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

The time of delivery or performance is an essential contract element and must be clearly stated in solicitations and contracts. The contracting officer may set forth a required delivery schedule or may allow an offeror to propose an alternate delivery schedule. The information is needed to assure supplies or services are obtained in a timely manner.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *10* minutes) per completion, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *3,440*; responses per respondent, *5*; total annual responses, *17,200*; preparation

hours per response, *.167*; and total response burden hours, *2,872*.

OBTAINING COPIES OF JUSTIFICATIONS: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0043, Delivery Schedules, in all correspondence.

Dated: January 25, 1996.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 96–1981 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy; Notice of Open Meeting

AGENCY: United States Military Academy, West Point, New York.

SUMMARY: In accordance with Section 10(a)(20) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy.

Date of Meeting: 29 February 1996.

Place of Meeting: Room 418, Russell Senate Office Building, Washington, D.C.

Start Time of Meeting: 9:00 a.m.

Proposed Agenda: Election of officers; selection of Executive Committee; scheduling of meeting for remainder of year; and identification of areas of interest for 1996. All proceedings are open.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John J. Luther, United States Military Academy, West Point, NY 10996–5000, (914) 938–5870.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–2116 Filed 1–31–96; 8:45 am]

BILLING CODE 3710–08–M

Privacy Act of 1974; Notice to Amend and Delete Systems of Records

AGENCY: Department of the Army.

ACTION: Notice to amend and delete systems of records.

SUMMARY: The Department of the Army is amending eleven systems of records notices and deleting one in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 4, 1996 unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, U.S. Army Information Systems Command, ATTN: ASOP-MP, Fort Huachuca, AZ 85613–5000.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Turner at (602) 538–6856 or DSN 879–6856.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: January 24, 1996.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETION
A0380–67USAREUR

SYSTEM NAME:

Employee Screening Program/ Installation Access Files *(February 22, 1993, 58 FR 10121).*

Reason: All records identified with this system were destroyed prior to the October 1, 1994 inactivation date for all U.S. Army units remaining in Berlin, Germany.

AMENDMENTS
A0015–34DARP

SYSTEM NAME:

Army Civilian/Military Service Review Board *(February 22, 1993, 58 FR 10029).*

SYSTEM IDENTIFIER:

Replace 'DARP' with 'ARPC'.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.'

NOTIFICATION PROCEDURE:

Delete address and replace with 'Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.'

RECORD ACCESS PROCEDURE:

Delete address and replace with 'Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.'

* * * * *

A0015–34ARPC

SYSTEM NAME:

Army Civilian/Military Service Review Board.

SYSTEM LOCATION:

U.S. Army Reserve Personnel Center, 9700 Page Boulevard, St. Louis, MO 63132–5200.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian or contractual personnel (or their survivors) who were members of a group certified by the Secretary of the Air Force to have performed active duty with the Armed Forces of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application of individuals for recognition of service, evidence that supports claim of membership in approved group, action of the Army Civilian/Military Service Review Board, DD Form 214 and DD Form 256 or DD Form 257 as appropriate, and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 401, Pub. L. 95–202 and DOD Directive 1000.20, Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel.

PURPOSE(S):

To determine whether individual applicants were members of civilian or contractual groups approved as having rendered service to the Army and whose service constitutes active military service, and to issue appropriate discharge or casualty documents, including applicable pay and equivalent rank or grade.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Copy of DD Form 214 is furnished to the Department of Veterans Affairs for benefits entitlements.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Papers stored in file folders.

RETRIEVABILITY:

By applicant's surname.

SAFEGUARDS:

Information is accessible only to designated persons having official need therefore in the performance of their duties. During non-duty hours, guards assure that records areas are secured.

RETENTION AND DISPOSAL:

Upon favorable Board decision, an Official Military Personnel File is created, containing individual's application, Board action, DD Form 213, DD Form 256 or DD Form 257 as appropriate, and DD Form 1300 if applicable. This file is transferred to the National Personnel Records Center, General Services Administration, where it is retained permanently.

Disapproved applications, together with supporting documentation and the Board's decision, are retained for 2 years, following which they are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.

For verification purposes, individual should provide the full name at the time of the recognized military service, date and place of birth, details concerning affiliation with group certified to have performed active duty with the Army, and signature.

RECORD ACCESS PROCEDURE:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Reserve Personnel Center, ATTN: ARPC-IMG-F, 9700 Page Boulevard, St. Louis, MO 63132–5200.

For verification purposes, individual should provide the full name at the time of the recognized military service, date and place of birth, details concerning affiliation with group certified to have performed active duty with the Army, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are published in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0027DAJA

SYSTEM NAME:

Civil Process Case Files *(August 3, 1993, 58 FR 41252).*

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Office of the Judge Advocate, Headquarters, U.S. Army Europe and Seventh Army, Unit 29351, APO AE 09014–0007.'

* * * * *

A0027DAJA

SYSTEM NAME:

Civil Process Case Files.

SYSTEM LOCATION:

Office of the Judge Advocate, Headquarters, U.S. Army Europe and Seventh Army, Unit 29351, APO AE 09014–0007.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members of the Armed Forces, civilian employees of the U.S. Government, and their dependents upon whom service is made of documents issued by German civil courts, customs and taxing agencies, and other administrative agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents from German authorities regarding payment orders, execution orders, demands for payment of indebtedness, notifications to establish civil liability, customs and tax demands, assessing fines and penalties, demands for court costs or for costs for administrative proceedings summonses and subpoenas, paternity notices, complaints, judgments, briefs, final and interlocutory orders, orders of confiscation, notices, and other judicial or administrative writs; correspondence between U.S. Government authorities and the Federal Republic of Germany; identifying data on individuals concerned; and similar relevant documents and reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013; Agreement to Supplement the Agreement between the Parties to the North Atlantic Treaty regarding the Status of their Forces with respect to Foreign Forces stationed in the Federal Republic of Germany (NATO Status of Forces Supplementary Agreement).

PURPOSE(S):

To ensure that U.S. Forces obligations under the North Atlantic Treaty Organization Status of Forces Agreement are honored and the rights of U.S. Government employees are protected by making legal assistance available.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to foreign law enforcement or investigatory or administrative authorities, to comply with requirements imposed by, or to claim rights conferred in international agreements and arrangements regulating the stationing and status in Federal Republic of Germany of Defense military and civilian personnel.

Information disclosed to authorities of the Federal Republic of Germany may be further disclosed by them to claimants, creditors or their attorneys.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records and cards in steel filing cabinets; computer disk-packs and computerized database.

RETRIEVABILITY:

By individual's surname.

SAFEGUARDS:

All information is maintained in areas accessible only to designated individuals having official need therefor in the performance of their duties. Records are housed in buildings protected by military police or security guards.

RETENTION AND DISPOSAL:

Paper records are destroyed 2 years after completion of case; card files are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address inquiries to the Office of the Judge Advocate General, Headquarters, U.S. Army Europe and Seventh Army, Unit 29351, APO AE 09014–0007.

Individual should provide the full name, rank/grade, service number, sufficient details to permit locating the records, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to record about themselves contained in this record system should address inquiries to the Office of the Judge Advocate General, Headquarters, U.S. Army Europe and Seventh Army, Unit 29351, APO AE 09014–0007.

Individual should provide the full name, rank/grade, service number, sufficient details to permit locating the records, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; German authorities; Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0027–10cDAJA

SYSTEM NAME:

Witness Appearance Files *(February 22, 1993, 58 FR 10034).*

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Office of the Judge Advocate General, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete address and replace with 'Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200.'

NOTIFICATION PROCEDURE:

Delete address and replace with 'Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.'

RECORD ACCESS PROCEDURES:

Delete address and replace with 'Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.'

* * * * *

A0027–10cDAJA

SYSTEM NAME:

Witness Appearance Files.

SYSTEM LOCATION:

Office of the Judge Advocate General, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former military personnel and civilian employees requested to appear as witnesses before civil courts, administrative tribunals, and regulatory bodies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of the witness and official requesting same; name and location of trial or other proceeding.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To locate and provide witnesses to U.S. attorneys conducting trials on behalf of the Department of the Army.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information from this system of records may also be disclosed to law students participating in a volunteer legal support program approved by the Judge Advocate General of the Army.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and magnetic tapes/discs.

RETRIEVABILITY:

Retrieved by individual's surname.

SAFEGUARDS:

Records are accessible only to authorized personnel who are properly instructed in the permissible use thereof; building housing records are protected by security guards.

RETENTION AND DISPOSAL:

Destroyed after 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200..

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.

Individual should provide his/her full name, current address and telephone number, case number appearing on correspondence, and any other personal identifying data that will assist in locating the record.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.

Individual should provide his/her full name, current address and telephone number, case number appearing on correspondence, and any other personal identifying data that will assist in locating the record.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Army records and reports, Department of Justice, U.S. attorneys, civilian counsel, and similar pertinent sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0027–20bDAJA

SYSTEM NAME:

Tort Claim Files *(February 22, 1993, 58 FR 10035).*

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Office of the Judge Advocate General, U.S.

Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete address and replace with 'Office of the Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200.'

NOTIFICATION PROCEDURE:

Delete address and replace with 'Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.'

RECORD ACCESS PROCEDURES:

Delete address and replace with'Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.'

* * * * *

A0027–20bDAJA

SYSTEM NAME:

Tort Claim Files.

SYSTEM LOCATION:

Office of the Judge Advocate General, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed a complaint against the U.S. Army in the U.S. District Court under the Federal Tort Claims Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pleadings, motions, briefs, orders, decisions, memoranda, opinions, supporting documentation, and allied material, including claims investigation, reports and files involved in representing the U.S. Army in the Federal Court System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 2671–2680.

PURPOSE(S):

To defend the Army in civil suits filed against it in state or federal courts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information is disclosed to the Department of Justice and United States Attorneys' offices handling the particular case. Most of the information is filed in some manner in the courts in which the litigation is pending and therefore is a public record. In addition, some of the information will appear in the written orders, opinions, and decisions of the courts which, in turn, are published in the Federal Reporter System under the name or style of the case and are available to individuals with access to a law library.

Information from this system of records may also be disclosed to law students participating in a volunteer legal support program approved by the Judge Advocate General of the Army.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tapes/discs.

RETRIEVABILITY:

Retrieved by claimant's surname and court docket number.

SAFEGUARDS:

Records are maintained in file cabinets within secured buildings and available only to designated authorized individuals who have official need for them.

RETENTION AND DISPOSAL:

Records are destroyed 10 years after final action on the case.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.

Individuals should provide full name, current address and telephone number, case number that appeared on documentation, any other information that will assist in locating pertinent records and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 2203–1837.

Individual should provide full name, current address and telephone number, case number that appeared on documentation, any other information that will assist in locating pertinent records and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0027–40DAJA

SYSTEM NAME:

Litigation Case Files *(February 22, 1993, 58 FR 10037).*

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Office of the Judge Advocate General, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.'

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SYSTEM MANAGER(S) AND ADDRESS:

Delete address and replace with 'Office of the Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200.'

NOTIFICATION PROCEDURE:

Delete address and replace with 'Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.'

RECORD ACCESS PROCEDURES:

Delete address and replace with 'Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.'

* * * * *

A0027–40DAJA

SYSTEM NAME:

Litigation Case Files.

SYSTEM LOCATION:

Office of the Judge Advocate General, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who has filed a complaint against the U.S. Army or its

personnel in the state or federal courts; military and civilian personnel in the Department of the Army who are named defendants, in their individual or official capacity, in civil litigation initiated by or against the Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Pleadings, motions, briefs, orders, decisions, memoranda, opinions, supporting documentation, and allied materials involved in representing the U.S. Army in the Federal Court System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

To defend the Army in civil suits filed against it in the state or federal courts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information is disclosed to Department of Justice and U.S. Attorney's offices handling a particular case. Most of the information is filed in some manner in the courts in which the litigation is pending and therefore is a public record. In addition, some of the information will appear in the written orders, opinions, and decisions of the courts which, in turn, are published in Federal Reporter System under the name or style of the case and are available to individuals with access to a law library.

Information from this system of records may be disclosed to law students participating in a volunteer legal support program approved by the Judge Advocate General of the Army.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; magnetic tapes/discs.

RETRIEVABILITY:

By individual's surname and court docket number.

SAFEGUARDS:

Records are maintained in file cabinets within secured buildings and available only to designated authorized individuals who have official need therefor.

RETENTION AND DISPOSAL:

Records at the Office of the Judge Advocate General and the Chief of Engineers' office (for civil works) are destroyed after 30 years, except that those cases determined to have precedential, policy, or otherwise significant, value are permanent. Records in other legal offices are destroyed 6 years after completion of litigation.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Judge Advocate General, Department of the Army, 2200 Army Pentagon, Washington, DC 20310–2200.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.

Individual should provide full name, current address and telephone number, case number that appeared on documentation, any other information that will assist in locating pertinent records, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Chief, U.S. Army Litigation Division, 901 N. Stuart Street, Suite 400, Arlington, VA 22203–1837.

Individual should provide full name, current address and telephone number, case number that appeared on documentation, any other information that will assist in locating pertinent records, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 35 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Department of the Army records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0030AMC

SYSTEM NAME:

Food Taste Test Panel Files *(February 22, 1993, 58 FR 10040).*

* * * * *

NOTIFICATION PROCEDURE:

Replace address to read 'Director, U.S. Army Natick Research Development and Engineering Center, ATTN: AMSSC-NC, Science and Technology Directorate, Natick, MA 01760-5020.'

RECORD ACCESS PROCEDURES:

Replace address to read 'Director, U.S. Army Natick Research Development and Engineering Center, ATTN: AMSSC-NC, Science and Technology Directorate, Natick, MA 01760-5020.'

* * * * *

A0030AMC

SYSTEM NAME:

Food Taste Test Panel Files.

SYSTEM LOCATION:

U.S. Army Natick Research, Development and Engineering Center, Natick, MA 01760–5020.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military personnel who volunteer to participate in sensory taste tests of food items.

CATEGORIES OF RECORDS IN THE SYSTEM:

Questionnaire and locator documents completed by participants containing name, date, organization, business telephone number, sex, age, marital status, rank/grade, present/prior military service, highest educational level attained, section of country lived in the longest, willingness to test irradiated foods, food aversion/food preference data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012.

PURPOSE(S):

To evaluate food rations under development by the Army; to determine acceptability of food items in consideration of purchase.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer paper printouts, cards, magnetic tapes and paper records in file folders.

RETRIEVABILITY:

By participant's surname or assigned unique number.

SAFEGUARDS:

Records are stored in metal file cabinets which are locked when not under the control of authorized personnel. Buildings housing the records employ security guards.

RETENTION AND DISPOSAL:

Records are destroyed when participant is no longer active in the program.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Chief Counsel, U.S. Army Soldier Systems Command, Natick, MA 01760–5035.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, U.S. Army Natick Research Development and Engineering Center, ATTN: AMSSC-NC, Science and Technology Directorate, Natick, MA 01760–5020.

Individual should provide their full name and current address.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director, U.S. Army Natick Research Development and Engineering Center, ATTN: AMSSC-NC, Science and Technology Directorate, Natick, MA 01760–5020.

Individual should provide their full name and current address.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0055–355MTMC

SYSTEM NAME:

Personal Property Movement and Storage Records *(July 27, 1993, 58 FR 40115).*

* * * * *

RETRIEVABILITY:

Add to the end of the entry 'Social Security Number.'

* * * * *

A0055–355MTMC

SYSTEM NAME:

Personal Property Movement and Storage Records.

SYSTEM LOCATION:

Installation Transportation Offices and Joint Personal Property Shipping Offices, world-wide. Addresses may be obtained from the Commander, Headquarters, Military Traffic Management Command, Falls Church, VA 22041–5050.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military members of the Army, Navy, Marine Corps, and Air Force: Civilian employees; dependents; personnel of other government agencies when sponsored by the Department of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Orders authorizing shipment/storage of personal property to include privately owned vehicles and house trailers/mobile homes; DD Form 1131 (Cash Collection Voucher), DD Form 1299 (Application for Shipment and/or Storage of Personal Property), DD Form 1384 (Transportation Control and Movement Document), DD Form 1797 (Personal Property Counseling Checklist), Standard Form 1203 (Government Bill of Lading), Storage contracts, and other related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012 and E.O. 9397.

PURPOSE(S):

To arrange for the movement, storage and handling of personal property; to identify/trace lost or damaged shipments; to answer inquiries and monitor effectiveness of personal property traffic management functions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to commercial carriers to identify ownership, verify delivery of shipment, support billing for services rendered, and justify claims for loss, damage, or theft.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; microfilm; magnetic tapes and computer printouts.

RETRIEVABILITY:

By individual's surname and Social Security Number.

SAFEGUARDS:

Information is maintained in secured areas, accessible only to authorized personnel having an official need-to-know. Automated segments are further protected by code numbers/passwords.

RETENTION AND DISPOSAL:

Documents relating to packing, shipping and/or storing of household goods within continental United States are destroyed after 3 years; those relating to overseas areas are destroyed after 6 years. Documents regarding shipment of Privately owned vehicle/house trailers are destroyed after 2 years. Shipment discrepancy reports are destroyed after 2 years or when claim/investigation is settled, whichever is later. Administrative files reflecting queries and responses are retained for 2 years; then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Headquarters, Military Traffic Management Command, Falls Church, VA 22041–5050.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Installation Transportation Office which processed the shipping/storage documents.

Individuals should provide full name, Social Security Number, current address and telephone number, and any information which will assist in locating the records requested (e.g. type of shipment, origin, destination, date of application, etc.).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Installation Transportation Office which processed the shipping/storage documents.

Individuals should provide full name, Social Security Number, current address and telephone number, and any information which will assist in locating the records requested (e.g. type of shipment, origin, destination, date of application, etc.).

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual whose personal property is shipped/stored; from the carrier/storage facility.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0056–9TRADOC

SYSTEM NAME:

Marine Qualification Board Records *(February 22, 1993, 58 FR 10069).*

* * * * *

SYSTEM NAME:

Delete 'Board' from entry.

SYSTEM LOCATION:

Delete entry and replace with 'Director, Office of the Chief of Transportation, ATTN: ATZF-OCT-S, Fort Eustis, VA 23604–5407.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add 'and E.O. 9397' to entry.

PURPOSE(S):

Delete the phrase 'to issue Marine Service Book to qualified individuals;'

STORAGE:

Add to entry 'microfiche.'

RETRIEVABILITY:

Add 'Social Security Number' to entry.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete address and replace with 'Commander, U.S. Army Transportation Center, ATTN: ATZS-IMO-RM (Privacy Act Officer), Fort Eustis, VA 23604–5000.'

* * * * *

A0056–9TRADOC

SYSTEM NAME:

Marine Qualification Records *(February 22, 1993, 58 FR 10069).*

SYSTEM LOCATION:

Director, Office of the Chief of Transportation, ATTN: ATZF-OCT-S, Fort Eustis, VA 23604–5407.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian employees of the Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Marine Service Record (DA Form 3068–1), individual's request for examination, test results, character and suitability statements, physical qualification reports, experience qualifications and evaluations, commander's recommendation, Marine Qualification Board recommendation and final action thereon, U.S. Army Marine Licenses (DA Forms 4309 and 4309–1), and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3012 and E.O. 9397.

PURPOSE(S):

To evaluate and recommend appropriate action concerning the issuance, denial, suspension, or revocation of U.S. Army Marine Licenses; to award certification to individuals passing the marine qualification examination; to monitor test content and procedures to ensure that tests are valid and current; to award Special Qualification Identifiers to appointed Marine Qualification Field Examiners; to review marine casualty reports, incident reports, and investigations to re-evaluate qualifications of persons involved; and to maintain Marine Service Records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The U.S. Coast Guard, Department of Transportation may be furnished information concerning certification and licensing of individuals.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of system of record notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on microfiche.

RETRIEVABILITY:

By individual's surname and Social Security Number.

SAFEGUARDS:

Records are maintained within a building secured during non-duty hours, and are available only to authorized individuals having official need therefor.

RETENTION AND DISPOSAL:

Records are retained for 40 years, after which they are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Transportation Center, ATTN: ATZS-IMO-RM (Privacy Act Officer), Fort Eustis, VA 23604–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Office of the Chief of Transportation, ATTN: ATZF-OCT-S, Fort Eustis, VA 23604–5407.

Individual should furnish name, Social Security Number, address and enough pertinent details that will facilitate locating the information. Request must be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director, Office of the Chief of Transportation, ATTN: ATZF-OCT-S, Fort Eustis, VA 23604–5407.

Individual should furnish name, Social Security Number, address and enough pertinent details that will facilitate locating the information. Request must be signed.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, military and civilian personnel records and reports, civilian maritime records, U.S. Coast Guard, commanders and vessel masters, and other appropriate sources able to furnish relevant information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0095–1aTRADOC

SYSTEM NAME:

Individual Flight Records Folder *(April 28, 1993, 58 FR 25815).*

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete 'DA Form 4507 (Standard Evaluation/Training Gradeship)'. Replace 'DD Form 1021 (Contractor Crewmember Record)' with 'DD Form 1821 (Contractor Crewmember Record).'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, U.S. Army Aviation Center, ATTN: ATZQ-IS (Privacy Act Officer), Fort Rucker, AL 36362–5000.'

* * * * *

A0095–1aTRADOC

SYSTEM NAME:

Individual Flight Records Folder.

SYSTEM LOCATION:

Records are located at flight operations sections and contractor facilities at fixed Army airfields and other aviation units for all personnel on whom flight records are maintained. Including activities who approve contractor aircraft flight and ground operations procedures or use contractor personnel who operate aircraft for the government.

In addition to above locations, copies of individual flight records are maintained for active Army and Army Reserve officers at U.S. Total Army Personnel Command, ATTN: TAPC-OPE-V, 200 Stovall Street, Alexandria, VA 22332–0400;

Active Army warrant officers at U.S. Total Army Personnel Command, ATTN: TAPC-OPW-AV, 200 Stovall Street, Alexandria, VA 22332–0400;

Active Army Medical Service Corps officers at Headquarters, Department of the Army, ATTN: DASG-HCO-A, Skyline Place, Building 6, Falls Church, VA 22041–3258.

Army reservists not on extended active duty at U.S. Army Reserve Personnel Center, St. Louis, MO 63132–5200;

National Guard Personnel at the National Guard Bureau, Aberdeen Proving Grounds, MD 21005–5000;

Contractor personnel by the designated Government Flight Representative at the contractor facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army aviators who are members of the Active and Reserve Components and qualified and current in the aircraft to be flown; civilian employees of Government agencies and Government contractors who have appropriate certifications or ratings, flight surgeons or aeromedical physicians' assistants in aviation service, enlisted crew chief/crew members, aerial observers, personnel in non-operational aviation positions, and those restricted or prohibited by statute from taking part in aerial flights.

CATEGORIES OF RECORDS IN THE SYSTEM:

DA Forms 759 and 759–1 (Individual Flight and Flight Certificate Army (Sections I, II, and III); DA Form 4186 (Medical Recommendations for Flying Duty), DD Form 1821 (Contractor Crewmember Record); Name, Social Security Number, home address, date of birth, security clearance data, education, waivers, qualifications, disqualifications, re-qualifications, training, proficiency, and experience data, medical and physiological data, approvals to operate Government aircraft, requests for approval or contractor flight crewmember and contractor qualification training, and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 10 U.S.C. 3013; E.O. 9397; and Army Regulation 95–20, Contractor Flight Operations.

PURPOSE(S):

To record the flying experience and qualifications data of each aviator, crew member, and flight surgeon in aviation service; and to monitor and manage individual contractor flight and ground personnel records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to the Federal Aviation Agency and/or the National Transportation Safety Board.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of system of record notices apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, notebooks, and selected data automated on computer tapes and discs for management purposes.

RETRIEVABILITY:

Manual records are retrieved by individual surname.

Automated records are retrieved by name, plus any numeric identifier such as date of birth, Social Security Number, or Army serial number.

SAFEGUARDS:

Records are maintained in secure areas available only to designated persons having official need for the record.

Automated systems employ computer hardware/software safeguard features and controls which meet the administrative, physical, and technical safeguards of Army Regulation 380–19, Information Systems Security.

RETENTION AND DISPOSAL:

Active paper records are retained by the Flight Operations Facility until individual is transferred or separated. The records are transferred with the military personnel records jacket or civilian personnel folders, as appropriate.

Upon separation or retirement of individual, the records are retired to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St Louis, MO 63118 and U.S. Army Personnel Center (Military Personnel Records), and U.S. Army Reserve Components Personnel and Administration Center (Reserve Personnel), 9700 Page Boulevard, St Louis, MO 63132–5200; retained for 75 years after date of birth or 60 years after date of earliest document in the folder if date of birth cannot be ascertained.

If determined by the contracting officer, contractor flight personnel records with definite legal and administrative value to or required by the Army will be preserved with Army records to which they pertain and destroyed when no longer needed. Automated management information at system locations is retained until no longer needed for current operations.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Aviation Center, ATTN: ATZQ-IS (Privacy Act Officer), Fort Rucker, AL 36362–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is

contained in this record system should address written inquiries to the Flight Operations Section of their current unit or contractor facility; if not on active duty, send written inquiries to addresses listed in 'system location' or to the system manager.

Individual should provide the full name, Social Security Number, details which will help locate the records, current address, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system may visit or address written inquiries to the Flight Operations Section of their current unit or contractor facility; if not on active duty, furnishing full name and Social Security Number; if not on active duty, send written inquiries to addresses listed in 'system location' or to the system manger.

Individual should provide the full name, Social Security Number, details which will help locate the records, current address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Federal Aviation Administration, flight surgeons, evaluation reports, proficiency and readiness tests, and other relevant records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0095–2dTRADOC-ATC

SYSTEM NAME:

Air Traffic Controller/Maintenance Technician Records *(April 28, 1993, 58 FR 25817).*

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, U.S. Army Aviation Center, ATTN: ATZQ-IS (Privacy Act Officer), Fort Rucker, AL 36362–5000'.

NOTIFICATION PROCEDURE:

Add 'ATTN: ATZQ-ATC-PM,' after 'Center,'.

RECORD ACCESS PROCEDURES:

Add 'ATTN: ATZQ-ATC-PM,' after 'Center,'.

* * * * *

A0095–2dTRADOC-ATC

SYSTEM NAME:

Air Traffic Controller/Maintenance Technician Records.

SYSTEM LOCATION:

Primary system is at U.S. Army Aviation Center, Fort Rucker, AL 36362–5000.

Segments are located at Army Air Traffic Control facilities at fixed Army airfields and other aviation units requiring Air Traffic Control personnel. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Traffic Controllers and Air Traffic Control Maintenance Technicians employed by the Department of the Army.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, Air Traffic Controller and Maintenance Technician qualifications and certifications, training and proficiency data and ratings, date assigned to current facility, and similar relevant documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Aviation Act of 1958, 49 U.S.C. 313, 601, 1354, and 1421; and E.O. 9397.

PURPOSE(S):

To determine proficiency of Air Traffic Controllers and Air Traffic Control Maintenance Technicians and the reliability of the Air Traffic Control system operations within the Department of the Army.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to the Federal Aviation Administration, the National Transportation Safety Board, and similar authorities in connection with aircraft accidents, incidents, or traffic violations.

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of system of record notices also apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on cards. Selected data is automated on tapes and discs for management purposes.

RETRIEVABILITY:

Manually by individual surname; automated records are retrieved by name, plus any numeric identifier such as date of birth, Social Security Number, or Army serial number.

SAFEGUARDS:

Records are maintained in secure areas available only to designated persons having official need for the record. Automated systems employ computer hardware/software safeguard features and controls which meet the administrative, physical, and technical safeguards of Army Regulation 380–19, Information Systems Security.

RETENTION AND DISPOSAL:

Active paper records are retained by the Air Traffic Control facility until individual is transferred. The records are transferred with the military personnel records jacket or civilian personnel folders, as appropriate.

Upon separation or retirement of individual, the records are retired to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St Louis, MO 63118 and U.S. Army Personnel Center, and U.S. Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St Louis, MO 63132–5200; retained for 75 years after date of birth or 60 years after date of earliest document in the folder if date of birth cannot be ascertained. Automated management information at the primary location is retained until no longer needed for current operations.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Aviation Center, ATTN: ATZQ-IS (Privacy Act Officer), Fort Rucker, AL 36362–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Air Traffic Control facility where assigned or to Commander, U.S. Army Aviation Center, ATTN: ATZQ-ATC-PM, Fort Rucker, AL 36362–5000.

Individual should provide the full name, Social Security Number, details which will facilitate locating the records, current address and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Air Traffic Control facility where assigned or to Commander, U.S. Army Aviation Center, ATTN: ATZQ-ATC-PM, Fort Rucker, AL 36362–5000.

Individual should provide the full name, Social Security Number, details which will help locate the records, current address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, individual's supervisor, Army or Federal Aviation Administration physicians, Air Traffic Control Facility Personnel Status Reports (DA Form 3479–6–R), and Air Traffic Control Maintenance Personnel Certification Record.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0145–1aTRADOC–ROTC

SYSTEM NAME:

ROTC Applicant/Member Records *(February 22, 1993, 58 FR 10076).*

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Commander, Fort Monroe, ATTN: ATIM-AS (Privacy Act Officer), Fort Monroe, VA 23651–6000'.

* * * * *

A0145–1aTRADOC–ROTC

SYSTEM NAME:

ROTC Applicant/Member Records.

SYSTEM LOCATION:

Headquarters, U.S. Army Reserve Officers Training Corps (ROTC) Cadet Command, Fort Monroe, VA 23651–5000. Segments of the system exist at the U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400 and in offices of the Professor of Military Science at civilian educational institutions in ROTC regional offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who apply and are accepted into the Army ROTC program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application for appointment, which includes such personal data as name, Social Security Number, date and place of birth, citizenship, home address and telephone number, marital status; dependents; transcripts and certificates of education, training, and qualifications; medical examinations; financial assistance documents; awards; ROTC contract; photograph; correspondence between the member and the Army or other Federal agencies; letter of appointment in Active Army on completion of ROTC status; security clearance documents; official documents such as Cadet Command Form 139, DA Form 597, DA Form 61, DA Form 873, SF 88 and SF 93, DD Forms 4/1–4/2, and DOJ Form I–151 if applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 2101–2111 and E.O. 9397.

PURPOSE(S):

These records are used in the selection, training, and commissioning of eligible ROTC cadets in the Active Army and Reserve Forces and for personnel management, strength accounting, and manpower management purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

Information may be disclosed to the Federal Aviation Administration to obtain flight certification and/or licensing; to the Department of Veterans Affairs for member Group Life Insurance and/or other benefits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in folders; punched cards; microfilm/fiche; magnetic tape, drum, or disc.

RETRIEVABILITY:

By name or Social Security Number.

SAFEGUARDS:

All records are maintained in areas accessible only to authorized personnel who have official need in the performance of their assigned duties. Automated records are further protected by assignment of users identification and password edits to protect the system from unauthorized access and to restrict each user to specific files and data elements. User identification and passwords are changed at random times; control data are maintained by the system manager in a sealed envelope in an authorized safe.

RETENTION AND DISPOSAL:

Cadet Command Form 139 is retained in the ROTC unit for 5 years after cadet leaves the institution or is disenrolled from the ROTC program. Following successful completion of ROTC and academic programs and appointment as a commissioned officer with initial assignment to active duty for training, copy of pages 1 and 2 are reproduced and sent to the commandant of individual's basic branch course school. Records of rejected ROTC applicants are destroyed. Other records mentioned in preceding paragraphs are destroyed if not required to become part of individual's Military Personnel Records Jacket.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Fort Monroe, ATTN: ATIM-AS (Privacy Act Officer), Fort Monroe, VA 23651–6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, U.S. Army Reserve Officers Training Corps (ROTC), Fort Monroe, VA 23651–5000 or the Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400.

Individual should provide the full name, current address and telephone number and definitive description of the information sought.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, U.S. Army Reserve Officers Training Corps (ROTC), Fort Monroe, VA 23651–5000 or the Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400.

Individual should provide the full name, current address and telephone number and definitive description of the information sought.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, contesting contents, and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, civilian educational institutions, official Army records addressing entitlement status, medical examination and treatment, security determination, and attendance and training information while an ROTC cadet.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 96–2004 Filed 1–31–96; 8:45 am]

BILLING CODE 5000–04–F

Department of the Navy, DOD

Notice of Availability of Invention for Licensing

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. Patent Application Serial No. 08/295,581: Projector Slides for Night Vision Training; filed August 25, 1994.

Requests for copies of the patent application cited should be directed to the Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660 and must include the application serial number.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: January 26, 1996.

M.A. WATERS,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–2122 Filed 1–31–96; 8:45 am]

BILLING CODE 3810–FF–P

Notice of Intent To Grant Exclusive Patent License; Stidd Systems, Inc.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Stidd Systems, Inc., a revocable, nonassignable, exclusive license in the United States to practice the Government-owned invention described in U.S. Patent No. 5,377,613, ''Submersible Boat, '' issued January 3, 1995.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR OOCC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

M.A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–2117 Filed 1–31–96; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.215V]

Fund for the Improvement of Education: Partnerships in Character Education Pilot Projects Notice inviting Applications for New Awards for Fiscal Years 1996 and 1997

PURPOSE OF PROGRAM: The purpose of the Fund for the Improvement of Education (FIE) is to support nationally significant programs to improve the quality of education, assist all students to meet challenging State content standards, and contribute to the achievement of the National Education Goals. The purpose of this competition is to support pilot projects that design and implement character education programs as a way to address the broader FIE objectives.

ELIGIBLE APPLICANTS: Only State educational agencies, in partnership with one or more local educational agencies, may apply for grants under this program.

DEADLINE FOR TRANSMITTAL OF APPLICATIONS: March 26, 1996.

APPLICATIONS AVAILABLE: February 1, 1996.

ESTIMATED AVAILABLE FISCAL YEAR 1996 FUNDS: $1,000,000.

ESTIMATED RANGE OF AWARDS: $200,000–$250,000.

ESTIMATED AVERAGE SIZE OF AWARDS: $250,000.

ESTIMATED NUMBER OF AWARDS: 4.

Note: The Department is not bound by any estimates in this notice.

MAXIMUM AWARD: The Secretary does not consider an application that proposes a budget exceeding $250,000 for the first 12-month budget period.

PROJECT PERIOD: Up to 48 months.

SUPPLEMENTARY INFORMATION: It is the Department's intent to fund two cycles of awards from this competition. The first cycle of awards will be made from fiscal year 1996 funds. If applications of high quality remain unfunded, additional awards will be made in the second cycle in 1997, pending availability of Fiscal Year 1997 funds.

Under the Character Education program, State educational agencies provide technical and professional assistance to local educational agencies in the development and implementation of curriculum materials, teacher training, and other activities related to character education. Applicants requesting funds under this program must propose projects designed to develop character education programs that incorporate the following elements of character:

(a) Caring.
(b) Civic virtue and citizenship.
(c) Justice and fairness.
(d) Respect.
(e) Responsibility.
(f) Trustworthiness.
(g) Any other elements deemed appropriate by the members of the partnership.

APPLICABLE REGULATIONS: (a) The Education Department General Administrative Regulations (EDGAR) 34 CFR Parts 75, 77, 79, 80, 81, 82, 85, and 86, and (b) the regulations in 34 CFR Parts 98 and 99, and (c) the final regulations for *Standards for the Conduct and Evaluation of Activities Carried Out by the Office of Educational Research and Improvement (OERI)—Evaluation of Applications for Grants and Cooperative Agreements and Proposals for Contracts,* published on September 14, 1995 in the Federal Register (60 FR 47808), to be codified as 34 CFR Part 700.

TO REQUEST AN APPLICATION: Voice Mail: 202–219–2274; Facsimile machine: 202–219–2053; Mail: OERI/FIE Application, 555 New Jersey Avenue, NW, Washington, DC 20208–5645. Individuals who use a telecommunications device for the deaf (TDD), may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m., and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950, or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 20 U.S.C. 8003.

Dated: January 26, 1996.

Sharon P. Robinson,

Assistant Secretary, Office of Educational Research and Improvement.

[FR Doc. 96–2046 Filed 1–31–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–143–000]

Algonquin Gas Transmission Company; Notice of Application

January 26, 1996.

Take notice that on January 18, 1996, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP96–143–000 an application pursuant to Section 7 (b) and (c) of the Natural Gas Act for authorization to abandon and remove facilities being replaced and to utilize temporary workspace associated with, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 15, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Algonquin to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2033 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

In the matter of Algonquin Gas Transmission Corporation; Panhandle Eastern Pipe Line Company; Texas Eastern Transmission Corporation; Trunkline Gas Company.

[Docket No. RP96–46–000]

Notice of Technical Conference

January 26, 1996.

Take notice that a technical conference in this docket will be held on Tuesday, February 20, 1996, to discuss the standardization issues raised by the filing. The conference will begin at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested persons are invited to attend. for additional information please call Michael Goldenberg on 202–208–2294, or Cheum Ni on 202–208–2218.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2036 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GP94–2–005]

Columbia Gas Transmission Corporation; Notice of Refund Report

January 26, 1996.

Take notice that on January 16, 1996, Columbia Gas Transmission Corporation (Columbia) tendered for filing with the Commission a Refund Report stating that on November 28, 1995, Columbia made refunds and billings resulting in a net refund of $59,804,183.03 to certain customers, as explained below. These refunds were implemented in accordance with Article XV, Section E of the April 17, 1995 Settlement approved by the Commission in Docket No. GP94–2, *et al.* on June 15, 1995.

Columbia states that each customer receiving a refund or invoice was notified by a letter containing detailed schedules of each customer's refund and billing amounts by issue. Any customer which received a Docket No. RP90–108 refund or Docket No. RP80–146 Storage Gas Lost refund also received schedules showing the computation of the principal and interest portions of the refund.

In accordance with Article XV, Section C(3) of the Settlement, customers which did not execute a written agreement by the Effective Date did not receive refunds on November 28, 1995. Those customers, identified in Schedule 2 of the subject report, received a detail of the refunds due and were notified that the refunds could not be issued until a written waiver agreement is executed.

Schedule 3 of the subject report reflects an adjustment to the amounts that were billed for Contract Rejection Costs to appropriately reflect the annualization of short term contracts. These adjustments will be reflected on the January 1996 invoices.

Any person desiring to protest Columbia's refund report should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before February 2, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2034 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–120–000]

Colorado Interstate Gas Company; Notice of Application

January 26, 1996.

Take notice that on January 23, 1996, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to be effective February 22, 1996.

Second Revised Sheet No. 269
Second Revised Sheet No. 270

CIG proposes changing its advance notice that a Shipper that receives no-notice transportation service or stand-alone firm storage service must provide regarding whether the Shipper will seek to renew its service agreement pursuant to the right-of-first-refusal procedures in Article 3 of the General Terms and Conditions. Specifically, the revised tariff sheets provide that the deadline for advanced notice is either three

months (in connection with an agreement that has a duration of three years or less) or six months (in connection with an agreement that has a duration longer than three years) prior to the commencement of the storage Injection Period rather than the expiration of the contract. CIG states that this change is necessary to ensure that both existing and new firm storage shippers can fully utilize its service entitlements.

Any person desiring to be heard or to make any protest with reference to said application should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations. All such motions or protests must be filed a provided in Section 154.210 of the Commission's Regulations. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to this proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2038 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1518–005, et al.]

Commonwealth Electric Company, et al.; Electric Rate and Corporate Regulation Filings

January 25, 1996.

Take notice that the following filings have been made with the Commission:

1. Commonwealth Electric Company

[Docket No. ER94–1518–005]

Take notice that on January 18, 1996, Commonwealth Electric Company tendered for filing its compliance refund report in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. National Gas & Electrical L.P., Vesta Energy Alternatives Co., Ashton Energy Corporation, ACME Power Marketing, Inc., Kaztex Energy Ventures, Inc., IEP Power Marketing, LLC, Coral Power, L.L.C.

[Docket No. ER90–168–026; Docket No. ER94–1168–007; Docket No. ER94–1246–006; Docket No. ER94–1530–007; Docket No. ER95–295–005; Docket No. ER95–802–003; Docket No. ER96–25–001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 16, 1996, National Gas & Electrical L.P. filed certain information as required by the Commission's March 20, 1990 order in Docket No. ER90–168–000.

On January 16, 1996, Vesta Energy Alternatives Company filed certain information as required by the Commission's July 8, 1994 order in Docket No. ER94–1168–000.

On January 22, 1996 Ashton Energy Corporation filed certain information as required by the Commission's August 10, 1994 order in Docket No. ER94–1246–000.

On January 5, 1996, ACME Power Marketing, Inc. filed certain information as required by the Commission's October 18, 1994 order in Docket No. ER94–1530–000.

On January 16, 1996, Kaztex Energy Ventures, Inc. filed certain information as required by the Commission's February 24, 1995 order in Docket No. ER95–295–000.

On January 17, 1996, IEP Power Marketing, LLC filed certain information as required by the Commission's May 11, 1995 order in Docket No. ER95–802–000.

On January 22, 1996, Coral Power, L.L.C. filed certain information as required by the Commission's December 6, 1995 order in Docket No. ER96–25–000.

3. Public Service Company of New Mexico

[Docket No. ER95–1068–000]

Take notice that on January 17, 1996, Public Service Company of New Mexico tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. American Electric Power Service Corporation

[Docket No. ER95–1596–001]

Take notice that on January 11, 1996, American Electric Power Service Corporation tendered for filing its compliance filing and filing of Service Agreements under AEP Companies' Power Sales and Transmission Tariffs in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Tampa Electric Company

[Docket No. ER95–1775–001]

Take notice that on December 11, 1995, Tampa Electric Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy, Power Inc.

[Docket No. ER96–101–000]

Take notice that on January 18, 1996, Entergy Power Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Duke Power Company

[Docket No. ER96–110–001]

Take notice that on January 16, 1996, Duke Power Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Nevada Power Company

[Docket No. ER96–133–000]

Take notice that on January 18, 1996, Nevada Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Seagull Power Services Inc.

[Docket No. ER96–342–000]

Take notice that on January 5, 1996, Seagull Power Services Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Montana Power Company

[Docket No. ER96–472–000]

Take notice that on January 16, 1996, Montana Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER96–546–000]

Take notice that on January 16, 1996, Cinergy Services, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Pacific Gas & Electric Company

[Docket No. ER96–611–000]

Take notice that on December 29, 1995, Pacific Gas & Electric Company tendered for filing a Certificate of Concurrence, and a Notice of Termination of Pacific Gas & Electric Company's Rate Schedule FERC No. 83 in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of Colorado

[Docket No. ER96–713–000]

Take notice that on January 19, 1996, Public Service Company of Colorado tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. New York State Electric & Gas Corporation

[Docket No. ER96–715–000]

Take notice that on January 22, 1996, New York State Electric & Gas Corporation tendered for filing an amendment in the above-referenced docket.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Duke Power Company

[Docket No. ER96–763–000]

Take notice that on January 5, 1996, Duke Power Company (Duke), tendered for filing a Transmission Service Agreement (TSA) between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and American Electric Power Service Corporation (AEP). Duke states that the TSA sets out the transmission arrangements under which Duke will provide AEP firm transmission service under its Transmission Service Tariff.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. The Dayton Power and Light Company

[Docket No. ER96–764–000]

Take notice that on January 5, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an executed Master Electric Interchange Agreement between Dayton and AES Power, Inc. (AES).

Pursuant to the rate schedules, attached as Exhibit B to the Agreement, Dayton will provide to AES power and/or energy for resale.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Niagara Mohawk Power Corporation

[Docket No. ER96–765–000]

Take notice that on January 5, 1996, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and KCS Power Marketing (KCS) dated January 3, 1996 providing for certain transmission services to KCS.

Copies of this filing were served upon KCS and the New York State Public Service Commission.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Niagara Mohawk Power Corporation

[Docket No. ER96–766–000]

Take notice that on January 5, 1996, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and Associated Power Services (APSI) dated January 3, 1996 providing for certain transmission services to APSI.

Copies of this filing were served upon APSI and the New York State Public Service Commission.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Niagara Mohawk Power Service Corporation

[Docket No. ER96–767–000]

Take notice that on January 5, 1996, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing an agreement between Niagara Mohawk and Koch Power Services (Koch) dated January 2, 1996 providing for certain transmission services to Koch.

Copies of this filing were served upon Koch and the New York State Public Service Commission.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Maine Public Service Company

[Docket No. ER96–769–000]

Take notice that on January 11, 1996, Maine Public Service Company, submitted an agreement under its Umbrella Power Sales tariff.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Southern California Edison Company

[Docket No. ER96–770–000]

Take notice that on January 11, 1996, Southern California Edison Company (Edison), tendered for filing a Letter Agreement (Letter Agreement) with the Sacramento Municipal Utility District (SMUD). The Letter Agreement modifies the contract capacity purchase referenced in Commission Rate Schedule No. 238, the Power Sale Agreement between Edison and SMUD.

Edison requests an effective date of March 10, 1996.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. MidAmerican Energy Company

[Docket No. ER96–772–000]

Take notice that on January 11, 1996, MidAmerican Energy Company (MidAmerican), filed with the Commission Firm Transmission Service Agreements with Commonwealth Edison Company (Commonwealth) dated December 19, 1995; Cenergy, Inc. (Cenergy) dated December 29, 1995; and LG&E Power Marketing Inc. (LG&E) dated January 8, 1996; and Non-Firm Transmission Service Agreements with Commonwealth dated December 19, 1995; Cenergy dated December 29, 1995; and LG&E dated January 8, 1996, entered into pursuant to MidAmerican's Point-to-Point Transmission Service Tariff, FERC Electric Tariff, Original Volume No. 4.

MidAmerican requests an effective date of December 19, 1995 for the Agreements with Commonwealth, December 29, 1995 for the Agreements with Cenergy; and January 8, 1996 for the Agreements with LG&E; and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Commonwealth, Cenergy, LG&E, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Texas Utilities Electric Company

[Docket No. ER96–773–000]

Take notice that on January 11, 1996, Texas Utilities Electric Company (TU Electric), tendered for filing three executed transmission service agreements (TSA's) with Central & South West Services, Inc., Delhi Energy Services, Inc. and Sonat Power Marketing Inc. for certain Economy Energy Transmission Service under TU Electric's Tariff for Transmission Service To, From and Over Certain HVDC Interconnections.

TU Electric requests an effective date for the TSA's that will permit them to become effective on or before the service commencement date under each of the three TSA's. Accordingly, TU Electric seeks waiver of the Commission's notice requirements. Copies of the filing were served on Central & South West Services, Inc., Delhi Energy Services, Inc. and Sonat Power Marketing Inc., as well as the Public Utility Commission of Texas.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. The Dayton Power and Light Company

[Docket No. ER96–774–000]

Take notice that on January 11, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an executed Master Power Sales Agreement between Dayton and Tennessee Valley Authority (TVA).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to TVA power and/or energy for resale.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. Vermont Yankee Nuclear Power Corporation

[Docket No. ER96–775–000]

Take notice that on January 11, 1996, Vermont Yankee Nuclear Power Corporation (Vermont Yankee), tendered for filing proposed changes in its FPC Electric Service Tariff No. 1. Vermont Yankee states that the rate change proposed would result in a decrease in Vermont Yankee's revenue requirements of approximately $266,015 during 1996.

Vermont Yankee is making a limited Section 205 filing solely for amounts to fund post-retirement benefits other than pensions (PBOPS) pursuant to the requirement of SFAS 106.

Vermont Yankee states that copies of its filing have been provided to its customers and to state regulatory authorities in Vermont, New Hampshire, Maine, Massachusetts, Connecticut, and Rhode Island.

Comment date: February 8, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. Piney Creek Limited Partnership

[Docket No. QF86–896–007]

On January 23, 1996, Piney Creek Limited Partnership tendered for filing an amendment to its December 28, 1995, filing in this docket.

The amendment pertains to technical requirements and the ownership structure of the small power production facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: February 14, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2071 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP96–119–000]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

January 26, 1996.

Take notice that on January 23, 1996, Equitrans, L.P. tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with a proposed effective date of March 1, 1996:

First Revised Sheet No. 21
First Revised Sheet No. 32
Second Revised Sheet No. 34
Second Revised Sheet No. 35
Second Revised Sheet No. 36
Second Revised Sheet No. 37
First Revised Sheet No. 38
Second Revised Sheet No. 40
Second Revised Sheet No. 41
Second Revised Sheet No. 42
Second Revised Sheet No. 43
First Revised Sheet No. 44
Second Revised Sheet No. 46
Second Revised Sheet No. 47
Second Revised Sheet No. 48
Second Revised Sheet No. 49
First Revised Sheet No. 50
Second Revised Sheet No. 52
Second Revised Sheet No. 53
Second Revised Sheet No. 54
Second Revised Sheet No. 55
First Revised Sheet No. 56
First Revised Sheet No. 58
Second Revised Sheet No. 63
Second Revised Sheet No. 64
Third Revised Sheet No. 66
First Revised Sheet No. 68
Second Revised Sheet No. 200
First Revised Sheet No. 201
Second Revised Sheet No. 202
Second Revised Sheet No. 203
First Revised Sheet No. 203A
Second Revised Sheet No. 207
Second Revised Sheet No. 209
First Revised Sheet No. 210
First Revised Sheet No. 211
First Revised Sheet No. 212
Original Sheet No. 212A
First Revised Sheet No. 213
First Revised Sheet No. 217
First Revised Sheet No. 227
Second Revised Sheet No. 238
First Revised Sheet No. 239
First Revised Sheet No. 240
First Revised Sheet No. 241
First Revised Sheet No. 242
First Revised Sheet No. 243
First Revised Sheet No. 244
First Revised Sheet No. 245
First Revised Sheet No. 246
First Revised Sheet No. 247
First Revised Sheet No. 248
Original Sheet No. 248A
First Revised Sheet No. 250
First Revised Sheet No. 251
First Revised Sheet No. 252
Second Revised Sheet No. 261
Second Revised Sheet No. 267
First Revised Sheet No. 300
First Revised Sheet No. 301
First Revised Sheet No. 302
First Revised Sheet No. 303
Original Sheet No. 303A
Original Sheet No. 303B
Fourth Revised Sheet No. 304
Second Revised Sheet No. 305
Fourth Revised Sheet No. 306
First Revised Sheet No. 307
First Revised Sheet No. 308
Original Sheet No. 308A
Original Sheet No. 308B
First Revised Sheet No. 309
First Revised Sheet No. 310
First Revised Sheet No. 312
First Revised Sheet No. 313
Third Revised Sheet No. 314
First Revised Sheet No. 315
First Revised Sheet No. 316
First Revised Sheet No. 317
First Revised Sheet No. 319

First Revised Sheet No. 320
Third Revised Sheet No. 321
First Revised Sheet No. 322
First Revised Sheet No. 323
First Revised Sheet No. 327
Third Revised Sheet No. 329
Second Revised Sheet No. 332
First Revised Sheet No. 333
First Revised Sheet No. 334
First Revised Sheet No. 335
Third Revised Sheet No. 336
Second Revised Sheet No. 338
Third Revised Sheet No. 341
Third Revised Sheet No. 342
Second Revised Sheet No. 343
First Revised Sheet No. 345
First Revised Sheet No. 346
First Revised Sheet No. 358
Original Sheet No. 361
Original Sheet No. 362
Original Sheet No. 363
Original Sheet No. 364
Original Sheet No. 365
Original Sheet No. 366
Original Sheet No. 367
Sheets Nos. 368–399 Reserved for Future Use
First Revised Sheet No. 400
First Revised Sheet No. 401
First Revised Sheet No. 402
First Revised Sheet No. 403

Equitrans states that since its restructuring took effect in September, 1993, it has found a number of inconsistencies, ambiguities, and typographical errors in the tariff which require correction or clarification. Equitrans states that it has also identified certain modifications which are required to comport the tariff to recent changes in Commission regulations. Finally, Equitrans states that it is proposing certain tariff modifications which are desirable based on its experience in operating in a restructured environment. Equitrans states that these tariff modifications are proposed with the intent of making Equitrans' tariff easier to use and refer to, thereby enhancing service to Equitrans' customers.

Equitrans states that these tariff revisions will have no impact on the nature of services Equitrans performs and will not result in a general increase in Equitrans revenues. Equitrans requests a shortened suspension period to permit the tariff sheets to take effect on March 1, 1996.

Any person desiring to be heard or to protest this application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2037 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM96–2–28–001]

Panhandle Eastern Pipe Line Company; Notice of Compliance Filing

January 26, 1996.

Take notice that on December 5, 1995, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing additional data to comply with the Commission's October 31, 1995, order in Docket No. TM96–2–28–000, 73 FERC ¶ 61,150 (1995). The Commission directed Panhandle to provide additional support for fuel usage calculations, the deferred recoveries and to respond to an argument advanced that the surcharge recoveries are not commensurate with the changes to the fuel reimbursement adjustment.

Panhandle provided a narrative explanation and workpapers to comply with the order. Panhandle filed (1) data to support the deferred fuel reimbursement and to respond to the contention that surcharges are not commensurate with the changes to the fuel reimbursement adjustments; (2) gathering volumes before and after Panhandle's system reconfiguration for the period July 1994 through March 1995; and (3) support for the Market Zone Lost and Unaccounted-for Percentage of .24%.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before February 2, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2040 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MG96–6–000]

Transcontinental Gas Pipe Line Corporation; Notice of Filing

January 26, 1996.

Take notice that on January 19, 1996, Transcontinental Gas Pipe Line Company (Transco) filed a revised Code of Conduct pursuant to Order Nos. 566 *et seq.*[1] Transco states that the purpose of the filing is to reflect changes to its list of marketing affiliates, shared directors and officers resulting from the merger of Transco Energy Company (Transco's former parent) with a subsidiary of the Williams Companies, Inc.

Transco states that copies of this filing have been mailed to customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 12, 1996. Protest will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2035 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–121–000]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

January 26, 1996.

Take notice that on January 23, 1996 Williams Natural Gas Company (WNG) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with a proposed effective date of February 23, 1996:

[1] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No.566, 59 FR 32885 (June 27, 1994), III FERC Stats. & Regs. ¶ 30,997 (June 17, 1994); Order No. 566–A, *order on rehearing,* 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B, *order on rehearing,* 59 FR 65707, (December 21, 1994); 69 FERC ¶ 61,334 (December 14, 1995).

Ninth Revised Sheet No. 6
Tenth Revised Sheet No. 6A
First Revised Sheet No. 250A
Original Sheet No. 250B

WNG states that this filing is being made pursuant to Subpart C of part 154 of the Commission's regulations.

WNG states that this filing is being made to permit WNG to respond to competitive situations by discounting the fuel portion of its fuel and loss reimbursement percentages in order to gain or retain throughput on its system in cases where no incremental fuel is used in the transportation of the gas.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–2039 Filed 1–31–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5411–9]

Common Sense Initiative Council, Automobile Manufacturing Sector Subcommittee Meeting

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of open meeting of the Public Advisory Common Sense Initiative Council, Automobile Manufacturing Sector Subcommittee.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is given that, pending resolution of EPA's FY 1996 appropriation, the Automobile Manufacturing Sector Subcommittee of the Common Sense Initiative Council will meet on Friday, February 16, 1996, in Atlanta, Georgia. All meetings are open to the public. Seating at meetings will be on a first-come basis. Each individual or group wishing to make oral presentations will be allowed a total of three minutes.

OPEN MEETING NOTICE: Notice is hereby given that the Envionmental Protection Agency, pending resolution of its FY 1996 appropriation, is convening an open meeting of the Automobile Sector Subcommittee on Friday, February 16, 1996. Registration will open at 8:30 a.m. EST. The meeting will begin at approximately 9:00 a.m. EST and run until about 3:30 p.m. EST. The meeting will be held at the Summit Building, 10th floor conference room 10A and 10B, 410 West Peachtree Street, Atlanta, Georgia. The Automobile Manufacturing Sector has formed three project teams—Regulatory Initiatives, Alternative Sector Regulatory System/Community Technical Assistance and Life Cycle Management/Supplier Partnership. The Regulatory Initiatives project team's most recent meetings have focused on issues within the Clean Air Act's New Source Review Program. The Alternative Sector Regulatory System/Community Technical Assistance project team is currently identifying and discussing principles and attributes desirable in a new alternative regulatory system. The Life Cycle Management/Supplier Partnership project team has identified a portion of the supply chain to participate in the development of a framework for a supplier partnership that encourages the consideration of environmental impacts in product development. The project teams will report progress on these ongoing projects and present deliverables, if applicable. Seating may be limited, therefore, advance registration is recommended. An Agenda will be available February 9, 1996. Any person or organization interested in attending the meeting should contact Ms. Carol Kemker, Designated Federal Official (DFO), no later than February 13, 1996, at (404) 347–3555 extension 4222.

INSPECTION OF SUBCOMMITTEE DOCUMENTS: Documents relating to the above topics will be publicly available at the meeting. Thereafter, these documents and the minutes of the meeting will be available for public inspection in room 2821 of EPA Headquarters, 401 M Street SW., Washington, DC 20460, telephone number 202–260–7417. Common Sense Initiative information can be accessed electronically through contacting Katherine Brown at: brown.katherine@epamail.gov.

FOR FURTHER INFORMATION CONTACT: For more information about and vertification of this meeting, please call Carol Kemker, DFO on (404)347–3555 extension 4222; Keith Mason, Alternate DFO on (202) 260–1360; or Julie Lynch, Alternate DFO on (202) 260–4000.

Date: January 26, 1996.

Prudence Goforth,

Designated Federal Officer.

[FR Doc. 96–2008 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

[PF–643; FRL–4994–3]

Pesticide Tolerance Petitions; Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces initial filings and amendments of pesticide petitions (PP) and for food and feed additive petitions (FAP) proposing the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: OPP-Docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All

comments and data in electronic form must be identified by the docket number [PF–643]. No CBI should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Library.

Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, contact the PM named in each petition at the following office location/ telephone number:

Product Manager	Office location/telephone number	Address
Rick Keigwin (PM 10) .	Rm. 214, CM #2, 703–305–6788, e-mail: keigwin.rick@epamail.epa.gov	1921 Jefferson Davis Hwy., Arlington, VA.
George LaRocca (PM 13).	Rm. 204, CM #2, 703–305–6100, e-mail: larocca.george@epamail.epa.gov ...	Do.
Dennis Edwards (PM 19).	Rm. 266A, CM #2, 703–305–6386, e-mail: edwards.dennis@epamail.epa.gov	Do.
Teresa Stowe (PM 22)	Rm. 229, CM #2, 703–305–7740, e-mail: stowe.teresa@epamail.epa.gov	Do.
Joanne I. Miller (PM 23).	Rm. 237, CM #2, 703–305–7830, e-mail: miller.joanne@epamail.epa.gov	Do.
Robert J. Taylor (PM 25).	Rm. 245, CM #2, 703–305–6027, e-mail: taylor.robert@epamail.epa.gov	Do.
Ruth Douglas (PM 32)	Rm. 276, CM#2,, 703–305–6909, e-mail: douglas.ruth@epamail.epa.gov	Do.
Janet Anderson (PM 90).	Rm. 5th Fl., CS, 703–308–8694, e-mail: anderson.janet@epamail.epa.gov	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

Initial Filings

1. *PP 4F3012.* FMC Corporation, Agricultural Marketing Group, 1735 Market St., Philadelphia, PA 19103, proposes to amend 40 CFR part 180 by establishing a regulation to add a tolerance for the use of cypermethrin [(R,S)-cyano-(3-phonoxyphenyl)methyl cis,trans-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] at 30 ppm in or on sweet corn. (PM 13)

2. *PP 5F4486.* Agridyne Technologies, Inc., 2401 South Foothill Drive, Salt Lake City, UT 84109 proposes to exempt from the requirement of a tolerance dihydroazadirachtin when used in accordance with good agricultural practices as an insect growth regulator and/or antifeedant applied to all RAC's. (PM 90)

3. *PP 5F4545.* E.I. DuPont de Nemours & Company, Agricultural Products, Walker Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880–0038, proposes to amend 40 CFR 180.441 by establishing tolerances for the combined residues of the herbicide quizalof[2-[4-(6-chloroquinoxalin-2-yl)oxylphenoxy)propanic acid] and quizalofopethyl(ethyl-2-[4,(6-chloroxyunoxalin-2-yloxy)phenoxy]propanonate), all expressed as quizalofop ethyl in or on foliage of legume vegetables (except soybean) at 3.0 ppm and on canola seed at 2.0 ppm. (PM 25)

4. *PP 5F4572.* Valent U.S.A. Corp., 1333 N. California Blvd., Suite 600, Walnut Creek, CA 94596, proposes to amend 40 CFR 180.458 by establishing a regulation to permit the combined residues of the herbicide clethodim [(*E*)-(±)-2-[1-[[(3-chloro-2-propenyl) oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 2-cyclohexen-1-one moiety expressed as clethodim in or on tuberous and corm vegetables (crop subgroup 1-C) at 1.0 ppm and on tomatoes at 1.0 ppm. The proposed analytical method for determining residues is gas chromatography with a flame photometric detector. (PM 23)

5. *PP 5F4587.* Rohm and Haas Comapny, 100 Independence Mall West, Philadelphia, PA 19106–2399, proposes to amend 40 CFR 180.842 by establishing a tolerance for the residues/ combined residues of the insecticide benzoic acid 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide in or on pecans at .05 ppm. The proposed analytical method for determining residues is HPLC separation with UV detection. (PM 10)

6. *PP 5F4601.* Ciba Corp Protection, Ciba-Geigy Corporation, P.O. Box 18300, Greensboro, NC 27419–8300, proposes to amend 40 CFR 180.459 by establishing a tolerance for residues of the herbicide triasulfuron (3-(6-methoxy-4-methyl-1,3,5-triazin-2-yl)-1-[2-(2-chloroethoxy)-phenylsulfonyl)urea in or on barley hay at 15 ppm and wheat hay at 15 ppm. (PM 25)

7. *PP 6E4647.* ABERCO, Inc., 9430 Lanham-Severn Road, Seabrook, MD 20706, proposes to amend 40 CFR part 180 by establishing a regulation to permit the combined residues of the insecticide propylene oxide, at 300 ppm in or on raw nutmeats (except peanuts) when such foods are to be furhter processed into a final food form. The proposed analytical method for determining residues is gas chromatography. (PM 32)

8. *PP 6F4606.* E.I. du Pont de Nemours & Co., P.O. Box 80038, Wilmington, DE 19880–0038, proposes to amend 40 CFR 180.362 to decrease the tolerance for combined residues of fenbutatin-oxide, hexakis (2-methyl-2-phenylpropyl) distannoxane, and its organotin metabolites calulated as hexakis (2-methyl-2-phenylpropyl) distannoxane to 4.0 ppm in or on the raw agricultural commodity citrus fruits; to amend 40 186.3550 to decrease the tolerance to 20 ppm for the processed feed citrus pulp, dried; and to amend 40 CFR 185.3550 to decrease to tolerance to 28 ppm for the food citrus oil. (PM 19)

9. *PP 6F4609.* Zeneca AG Products, P.O. Box 15458, 1800 Concord Pike, Wilmington, DE 19850–5458, proposes to amend 40 CFR 180.226 by establishing a regulation to permit combined residues of the plant growth regulator diquat [6,7-dihydrodipyrido(1,2-alpha:2′,1′-c) pyrazinediium] derived from application of the dibromide salt and calculated as the cation, in or on dried shelled peas and beans (except soybeans) at 0.80 ppm. The proposed analytical method for determining residues is extraction with sulfuric acid with spectrometric detection. (PM 23)

10. *PP 6F4620.* Monsanto Company, 700 14th St., NW., Suite 1100, Washington, DC 20005, proposes to amend 40 CFR 180.479 by establishing a tolerance for the combined residues of the herbicide halosulfuron-methyl,

methyl 5-[[(4,6-dimethoxy-2-pyrimidinyl)amino] carbonylaminosulfonyl]-3-chloro-1-methyl-1-H-pyrozole-4-carboxylate, and its metabolites determined as 3-chloro-1-methyl-5-sulfamoylpyrazole-4-carboxylic acid and expressed as parent equivalents, in or on sugarcane cane at 0.05 ppm. The proposed analytical method for determining residues is gas chromatography with an electron-capture detector. (PM 23)

11. *PP 6F4621.* Sandoz Agro, Inc., 1300 East Touhy Ave., Des Plaines, IL 60018-3300, proposes to amend 40 CFR 180.356 by adding permanent tolerances for the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluro-*m*-tolyl)-3(2H)-pyridazinone] and its desmethyl metabolite [4-chloro-5-(amino)-2-(alpha, alpha, alpha-trifluro-*m*-tolyl)-3(2H)-pyridazinone] in or on bermudagrass forage at 3.0 ppm and bermudagrass hay at 2.0 ppm. The proposed analytical method for determining residues is gas chromotography with a Ni-63 electron capture detector. (PM 23)

12. *PP 6F4627.* ISK Bioscience Corporation, 5966 Heisley Road, P.O. Box 8000, Mentor, Ohio 44061-8000, proposes to amend 40 CFR 180.275 by establishing a regulation to permit the combined residues of chlorothalonil and its metabolite 4-hydroxy-2,5,6-trichloroisophthalonitrile (SDA-3701) in or on peanut hay at 20 ppm. (PM 22)

Food Additive Petitions; Initial Filings

1. *FAP 5F4541.* Zeneca AG Products, 1800 Concord Pike, P.O. Box 15458, Wilmington, DE 19850-5458, proposes to amend 40 CFR part 180 by establishing a regulation to permit residues of the fungicide azoxystrobin(methyl(*E*)-2-[2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy]phenyl]-3-methyoxyacrylate) in or on grapes at 1.0 ppm; grape pomace at 2.0 ppm; raisin waste at 9.0 ppm, and pecans at 0.01 ppm. (PM 22)

2. *FAP 6F5737.* E.I. DuPont de Nemours & Company, Inc., Agricultural Products, Walker Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880-0038, proposes to amend 40 CFR 185.5250 by establishing tolerances for the combined residues of the herbicide quizalof[2-[4-(6-chloroquinoxalin-2-yl)oxylphenyl)propanic acide] and quizalofopethyl(ethyl-2-[4,(6-chloroxyunoxalin-2-yloxy)phenoxy]propanonate), all expressed as quizalofop ethyl in or on the food commodities canola: meal at 3.0 ppm and canola: oil at 0.1 ppm and to amend 40 CFR 186.5250 by establishing tolerances for the combined residues of the herbicide quizalof[2-[4-(6-chloroquinoxalin-2-yl)oxylphenyl)propanic acide] and quizalofopethyl(ethyl-2-[4,(6-chloroxyunoxalin-2-yloxy)phenoxy]propanonate), all expressed as quizalofop ethyl in or on the feed commodity canola: meal at 3.0 ppm. (PM 25)

Pesticide Petitions; Amended

PP 4F4322. E.I. DuPont de Nemours & Company, Inc., Agricultural Products, Walker Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880-0038, proposes to amend 40 CFR 180.451 by establishing tolerances for the herbicide tribenuron(methyl 2- [[[[N-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)methylamino] carbonyl]amino]sulfonyl]benzoate) in or on the raw agricultural commodities hay of grass forage, fodder and hay group (excluding bermuda grass) at 0.1 ppm; forage of grass forage, fodder and hay group (excluding bermunda grass) at 0.1 ppm and forage regrowth at 0.1 ppm. The proposed analytical method for determining residues is gas chromotography with mass spectrum detector. The initial filing appeared in the Federal Register at 59 FR 35719, July 13, 1994.

A record has been established for this document under docket number [PF–643] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-Docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this document, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Authority: 7 U.S.C. 136a.

Dated: January 26, 1996.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 96–2144; Filed 1–29–96; 4:28 pm]

BILLING CODE 6560–50–F

[FRL–5410–9]

Proposed Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act Regarding the Tri-Cities Barrel Superfund Site, Broome County, New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed *de minimis* administrative settlement and opportunity for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9622(i), the U.S. Environmental Protection Agency Region II (''EPA'') announces a proposed administrative *de minimis* settlement pursuant to Section 122(g)(4) of CERCLA, 42 U.S.C. 9622(g)(4), relating to the Tri-Cities Barrel Co., Inc. Superfund Site (''Site''). The Site is located in the Hamlet of Port Crane, Town of Fenton, Broome County, New York, and is on the National Priorities List established under Section 105 of CERCLA. This notice is being published pursuant to Section 122(i) of CERCLA to inform the public of the proposed settlement and of the opportunity to comment. EPA will consider any comments received during the comment period and may withdraw or withhold consent to the proposed settlement if comments disclose facts or considerations which indicate that the proposed settlement is inappropriate, improper or inadequate.

The proposed *de minimis* settlement will be memorialized in an Administrative Order on Consent (''Order'') between EPA and twenty-six settling parties (''Respondents''). Under the Order, the Respondents will be obligated to pay an aggregate of $634,465 to the Hazardous Substances Superfund. The amount required to be paid by each settling party represents the share attributable to such Respondent of the projected total

response costs at the Site, based upon the Respondent's estimated volumetric contribution, plus a premium to account for the potential of cost overruns, the potential of failure of the selected remedy and other risks.

Pursuant to CERCLA Section 122(g)(4), the Order may not be issued without the prior written approval of the Attorney General or her designee. In accordance with that requirement, the Attorney General or her designee has approved the proposed administrative order in writing.

The remedial investigation and feasibility study for the Site are being conducted by other potentially responsible parties under EPA oversight and the remedial action has not yet been selected.

DATES: Comments must be provided on or before March 4, 1996.

ADDRESSES: Comments should be addressed to the U.S. Environmental Protection Agency, Office of Regional Counsel, New York/Caribbean Superfund Branch, 290 Broadway, 17th Floor, New York, NY 10007–1866 and should refer to: ''Tri-Cities Barrel Co., Inc. Superfund Site, Hamlet of Port Crane, Town of Fenton, Broome County, New York (U.S. EPA Index No. II-CERCLA–95–0213).'' For a copy of the settlement document, contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Carl P. Garvey, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866, Telephone: (212) 637–3181.

Dated: December 4, 1996.

William Muszynski,

Acting Regional Administrator.

[FR Doc. 96–2143 Filed 1–31–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Submitted to OMB for Review and Approval

January 29, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c)ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before March 4, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain_t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0623

Title: Application for Mobile Radio Service Authorization for Rural Radiotelephone service authorization

Form No.: FCC Form 600.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit; individuals or households; Not-for-profit institutions; Federal government; and State Local and Tribal Government.

Number of Respondents: 194,769.

Estimated Time Per Response: 4 hours.

Total Annual Burden: 779,076 hours.

Needs and Uses: FCC Form 600 is field by applicants applying for new or modified authorization to provide for use in commercial private, both commercial and private, or fixed services. The data is used to determine eligibility, for rulemaking proceedings, enforcement purposes and for resolving treating obligations. The OMB collection is being revised to include additional applicants.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2201 Filed 1–31–96; 8:45 am]

BILLING CODE 6712–01–F

Public Information Collection Approved by Office of Management and Budget

January 24, 1996.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995, Pub. L. 96–511. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0526.

Expiration Date: 01/31/99.

Title: Density Pricing Zone Plans, Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91–141.

Estimated Annual Burden: 3,200 total annual hours; average 200 hours per respondent; 16 respondents.

Description: In CC Docket No. 91–141, the Commission required Tier 1 local exchange carriers (LECs) to provide expanded opportunities for third-party interconnection with their interstate special access facilities. The LECs will be permitted to establish a number of rate zones within study areas in which expanded interconnection is operational. These LECs must file and obtain approval of their pricing plans which will be used by FCC staff to ensure that the tariff rates are just, reasonable, and nondiscriminatory pursuant to the Act.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2074 Filed 1–31–96; 8:45 am]

BILLING CODE 6712–01–F

Notice of Public Information Collections Submitted to OMB for Review and Approval

January 24, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the

following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before March 4, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain_t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: 3060–0174.

Title: 73.1212 Sponsorship identification; list retention; related requirements.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Businesses or other for-profit; individuals or households.

Number of Respondents: 34,026.

Estimated Time Per Response: 1.3 hours.

Total Annual Burden: 45, 375 hours.

Needs and Uses: Section 73.1212 requires a broadcast station to identify the sponsors of any matter for which consideration is provided. For matters advertising commercial products or services, generally the mention of the name of the product or service constitutes sponsorship identification. In addition, when an entity rather than an individual sponsors the broadcast of a matter that is of a political or controversial nature, the licensee is required to retain a list of the executive officers, or board of directors, or executive committee, etc., of the organization payng for such matter. Sponsorship announcements are waved with respect to the broadcast of ''want ads'' sponsored by an individual but the licensee shall maintain a list showing the name, address and telephone number of each such advertiser. These lists shall be made available for public inspection. The data is used by the public so that they may know by whom they are being persuaded.

OMB Approval No.: 3060–0540.

Title: Tariff filing requirement for nondominant common carriers.

Form No.: N/A.

Type of Review: Revision of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 2,000.

Estimated Time Per Response: 10.5 hours.

Total Annual Burden: 21,000 hours.

Needs and Uses: 47 CFR Part 61 Section 61.20 - 61.23 contains tariff filing requirements for nondominant common carriers. The purpose of the filing requirement is so that the Commission, customers, and interested parties can ensure that the service offerings of communications common carriers comply with the Communications Act. The Commission rectnly modified the tariff filing rules for domestic nondominant carriers to remove the provision permitting such carriers to file rates in a manner of the carriers choosing, including as a reasonable range of rates. Domestic, nodominant common carriers must file tariffs containing specific rates.

OMB Approval No.: 3060–0520.

Title: Section 90.127(e) Submission and filing of applications.

Form No.: N/A.

Type of Review: Extension of an existing collection.

Respondents: Business or other for-profit; Not-for-profit-institutions; State, Local or Tribal Governments.

Number of Respondents: 109,200.

Estimated Time Per Response: 5 minutes.

Total Annual Burden: 9,100 hours.

Needs and Uses: Section 90.127(e) requires licensees to report the number of mobiles and pagers when license is modified or renewed. This information is used for frequency coordination and licensing.

OMB Approval No.: 3060–0484.

Title: Amendment of Part 63 of the Commission's Rules to Provide for Notification by Common Carriers of Service Disruptions (section 63.100).

Form No.: N/A.

Type of Review: Revison of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 52 respondents; approximately 4 responses per respondent; total responses 208.

Estimated Time Per Response: 5 hours.

Total Annual Burden: 1,040 hours.

Needs and Uses: 47 CFR Section 63.100 requires that any local exchange or interexchange common carrier that operates transmission or switching facilites and provides access service or interstate or international telecommunications service that experiences an outage on any facilites which it owns or operates must notify the Commission if such service outage continues for 30 minutes or more. An initial and a final report is required for each outage. In an Order of Reconsideration in CC Docket No. 91–273, the Commission amended the rules to require, among other things, that local exchange or interexchange common carriers or competitive access providers that operate either transmission or switching facilites and provide access service or interstate or international telecommunications service report outages that effect 30,000 or more customers or that affect special facilities and report fire-related incidents impacting 1,000 or more lines. With such reports the FCC can monitor and take effective action to ensure network reliability.

OMB Approval Number: 3060–0384.

Title: Auditor's Certification Section 64.904.

Form No.: N/A.

Type of Review: Extension of existing collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 19.

Estimated Time Per Response: 500 hours.

Total Annual Burden: 9,500.

Needs and Uses: Local exchange carriers required to file cost allocation manuals must have performed annually, by an independent auditor, and audit that provides a positive option on whether the applicable data shown in the carriers annual report presents fairly the information of the carrier required to be set forth in accordance with the carrier's cost allocation manual, the Commission's Joint Cost Orders and applicable Commission rules in Part 32 and 64 in force as of the date of the auditor's report. This requirement assist the Commission in effectively carrying out its responsibilites.

Federal Communications Commission.
William F. Caton,
Acting Secretary.
[FR Doc. 96–2075 Filed 1–31–96; 8:45 am]
BILLING CODE 6712–01–F

Public Safety Wireless Advisory Committee; Subcommittee Meetings

AGENCIES: The National Telecommunications and Information Administration (NTIA), Larry Irving, Assistant Secretary for Communications and Information, and the Federal Communications Commission (FCC), Reed E. Hundt, Chairman.

ACTION: Notice of the next meetings of the Spectrum Requirements, Interoperability, Technology, Operational Requirements, and Transition Subcommittees of the Public Safety Wireless Advisory Committee.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the next meetings of the five Subcommittees of the Public Safety Wireless Advisory Committee. The NTIA and the FCC established a Public Safety Wireless Advisory Committee and Subcommittees to prepare a final report to advise the NTIA and the FCC on operational, technical and spectrum requirements of Federal, state and local Public Safety entities through the year 2010. All interested parties are invited to attend and to participate in the next round of meetings of the Subcommittees.

DATES: February 28, 29, March 1, in Orlando, Florida (Wednesday–Friday).

ADDRESSES: U.S. Customs Service, Department of the Treasury, National Law Enforcement Communications Center, Naval Training Center, 1900 Leahy Avenue, Orlando, FL 32803.

FOR FURTHER INFORMATION CONTACT: For information regarding the Subcommittees, contact:
Interoperability Subcommittee: James E. Downes at 202–622–1582
Operational Requirements Subcommittee: Paul H. Wieck at 515–281–5261
Spectrum Requirements Subcommittee: Richard N. Allen at 703–630–6617
Technology Subcommittee: Alfred Mello at 401–738–2220
Transition Subcommittee: Ronnie Rand at 904–322–2500 or 800–949–2726 ext. 600
For more information regarding accommodations and transportation, contact: Deborah Behlin at 202–418–0650 (phone), 202–418–2643 (fax), or dbehlin@fcc.gov (email). You may also contact Ms. Behlin for general information concerning the Public Safety Wireless Advisory Committee. Information is also available from the Internet at the Public Safety Wireless Advisory Committee's homepage: http://pswac.ntia.doc.gov.

SUPPLEMENTARY INFORMATION: The five Subcommittees of the Public Safety Wireless Advisory Committee will hold consecutive meetings over a three day period, Wednesday through Friday, February 28, 29 and March 1, 1996. The expected arrangement of the meetings, which is subject to change at the time of the meetings, is as follows:

February 28, 1995—The Operational Requirements and Transition Subcommittees will meet consecutively starting at 9:00 a.m.
February 29, 1995—The Interoperability and Spectrum Requirements Subcommittees will meet consecutively starting at 9:00 a.m.
March 1, 1995—The Technology Subcommittee will meet starting at 9:00 a.m.

The agenda for each meeting is as follows:

1. Welcoming Remarks
2. Approval of Agenda
3. Administrative Matters
4. Work Program/Organization of Work
5. Meeting Schedule
6. Agenda for Next Meeting
7. Other Business
8. Closing Remarks

The tentative schedule and general location of future meetings of the Subcommittees of the Public Safety Wireless Advisory Committee are as follows:

April, 1996 in San Diego, CA
May, 1996 at Scott AFB, Illinois (near St Louis, MO)
June, 1996 in Washington, D.C.

The tentative schedule and general location of the next full meetings of the Public Safety Wireless Advisory Committee are:

June 1996, in Washington, D.C.

The Co-Designated Federal Officers of the Public Safety Wireless Advisory Committee are William Donald Speights, NTIA, and John J. Borkowski, FCC. For public inspection, a file designated WTB–1 is maintained in the Private Wireless Division of the Wireless Telecommunications Bureau, Federal Communications Commission, Room 8010, 2025 M Street NW., Washington, D.C. 20554.

Federal Communications Commission.
Robert H. McNamara,
Chief, Private Wireless Division, Wireless Telecommunications Bureau.
[FR Doc. 96–2073 Filed 1–31–96; 8:45 am]
BILLING CODE 6712–01–P

First Meeting of the WRC–97 Advisory Committee; Notice

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the first meeting of the WRC–97 Advisory Committee will be held on February 6, 1996 at the Federal Communications Commission. The purpose of the meeting is to begin preparations for the 1997 World Radiocommunication Conference.

DATE: February 6, 1996; 2:00 p.m.–4:30 p.m.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Room 856, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Cecily C. Holiday, FCC International Bureau, Satellite and Radiocommunication Division, at (202) 418–0719.

SUPPLEMENTARY INFORMATION: As part of its preparation for the 1997 World Radiocommunication Conference (WRC–97), the Federal Communications Commission (FCC) has amended the charter of its Advisory Committee for the 1995 World Radio Conference. The Advisory Committee will now be called the Advisory Committee for the 1997 World Radiocommunication Conference and its scope of activities will be to address the issues contained in the agenda for WRC–97. A copy of the WRC–97 Agenda is attached. The FCC established the Advisory Committee to provide advice, technical support and recommendations relating to the preparation of U.S. proposals and positions for World Radiocommunication Conferences.

In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the first meeting of the WRC–97 Advisory Committee. Due to the severe time constraints resulting from the recent government office closures and the scheduling of a series of international meetings to consider preparations for WRC–97, this agency has concluded that exceptional circumstances warrant holding the Advisory Committee's first meeting on February 6, 1996. Public Notice of this meeting has also been published by the FCC.

The WRC–97 Advisory Committee will continue to have an open membership. All interested parties are invited to participate and to attend the meeting.

The proposed agenda for the first meeting is as follows:

Agenda

First Meeting of the WRC–97 Advisory Committee, Federal Communications Commission, 1919 M Street, NW., Room 856, Washington, DC 20036, February 6, 1996; 2:00 p.m.–4:30 p.m.

1. Opening Remarks.
2. Approval of Agenda.
3. Review of Results of WRC–95.
4. Review of U.S. Preparatory Process for WRC–97 (FCC-NTIA-State).
5. Structure of WRC–97 Advisory Committee.
6. Other Business.

Resolution GT PLEN–3

Agenda for the 1997 World Radiocommunication Conference

The World Radiocommunication Conference (Geneva, 1995), considering:

(a) That in accordance with Nos. 118 and 126 of the Convention of the International Telecommunication Union (Geneva, 1992), and having regard to Resolution 1 of the Additional Plenipotentiary Conference (Geneva, 1992), the general scope of the agenda for a world radiocommunication conference should be established four years in advance and a final agenda shall be established two years before the conference;

(b) Resolution 3 of the Plenipotentiary Conference (Kyoto, 1994);

(c) The relevant resolutions and recommendations of previous world administrative radio conferences (WARC) and world radiocommunication conferences (WRC), recognizing that this Conference identified a number of urgent issues requiring further examination by the 1997 World Radiocommunication Conference (WRC–97), resolves to recommend to the Council that a World Radiocommunication Conference be held in Geneva in late 1997 for a period of four weeks, with the following agenda:

1 On the basis of proposals from administrations and the Report of the Conference Preparatory Meeting, and taking account of the results of WRC–95, to consider and take appropriate action in respect of the following topics:

1.1 Requests from administrations to delete their country footnotes or to have their country's name deleted from footnotes, if no longer required, within the limits of Resolution [COM4–1];

1.2 Issues arising from the WRC–95 consideration of the VGE Report taking into account the following Resolutions [COM4–3];

1.3 Review of Appendix S7 [28] to the Radio Regulations, taking into account Resolution 60 (WARC–79), Resolution 712 (Rev.WRC–95) and Recommendation 711 (WARC–79);

1.4 Examination of, and taking necessary decisions on, the question of the HF bands allocated to the broadcasting service in the light of developments to date and the results of the studies carried out by the Radiocommunication Sector, and review of Article 17 [S12] of the Radio Regulations in accordance with Resolution [COM4–2] and Resolution [GT PLEN–2];

1.5 Based on the results of the studies to be carried out under Recommendation [GT PLEN–B], consider changes to the Radio Regulations, as appropriate;

1.6 Matters related to the maritime mobile and maritime mobile-satellite services:

1.6.1 The provisions of Chapters IX [Appendix S13] and NIX [Chapter SVII] of the Radio Regulations, as stipulated in Resolution 331 (Mob-87), and appropriate action in respect of the issues dealt with in Resolutions 200 (Mob-87), 210 (Mob-87) and 330 (Mob-87), including maritime certification and licensing issues related to Chapter [SIX] of the Radio Regulations, taking into account that the global maritime distress and safety system (GMDSS) shall be fully implemented in 1999;

1.6.2 The use of Appendix 18 [S18] to the Radio Regulations in respect of the VHF band for maritime mobile communications, and the use and extension of UHF channels contained in S5.287, taking into account Resolution 310 (Mob-87);

1.6.3 Article 61 [S53] of the Radio Regulations relating to the order of priority of communications in the maritime mobile service and in the maritime mobile-satellite service;

1.6.4 Review, and if necessary, revision of the provisions related to the NAVTEX coordination in order to release the ITU from the obligation to undertake operational coordination for this service operating on 490 kHz, 518 kHz and 4 209.5 kHz, in the light of the consultations undertaken with the International Maritime Organization (IMO) Resolution [COM4–7];

1.6.5 Use of the new digital technology in the maritime radiotelephony channels;

1.7 Review of Appendix 8 to the Radio Regulations taking into account Recommendation 66 (Rev.WARC–92);

1.8 The possible deletion of all secondary allocations from the band 136–137 MHz, which is allocated to the aeronautical mobile (R) service on a primary basis, in accordance with Resolution 408 (Mob-87) and in order to meet the special needs of the aeronautical mobile (R) service;

1.9 Taking into account the needs of other services to which the relevant frequency bands are already allocated:

1.9.1 Pressing issues concerning existing and possible additional frequency allocations and regulatory aspects as related to the mobile-satellite and fixed-satellite services including consideration of WRC–95 Resolutions [PLEN–1], [COM5–4, COM5–6, COM5–7, COM5–8, COM5–9, COM5–11], [GT PLEN–6] and Recommendation 717 (Rev.WRC–95);

1.9.2 Resolutions 211 (WARC–92), 710 (WARC–92) and Resolution 712 (Rev.WRC–95);

1.9.3 Recommendation 621 (WARC–92);

1.9.4 Frequency allocation issues related to the needs of the earth exploration-satellite service, which are not covered in the above-mentioned Resolutions, namely:

1.9.4.1 Allocation of frequency bands above 50 GHz to the earth exploration-satellite (passive) service;

1.9.4.2 Frequency allocations near 26 GHz to the earth exploration-satellite service (space-to-Earth);

1.9.4.3 The existing frequency allocations near 60 GHz and, if necessary, their re-allocation, with a view to protecting the earth exploration-satellite (passive) service systems operating in the unique oxygen absorption frequency range from about 50 GHz to about 70 GHz;

1.9.5 Allocations to the space research service (space-to-space) near 400 MHz;

1.9.6 The identification of suitable frequency bands above 30 GHz for use by the fixed service for high density applications;

1.10 Review of Appendices 30 [S30] and 30A [S30A] for Regions 1 and 3 in response to Resolution 524 (WARC–92), and taking particular account of *resolves* 2 of that Resolution, in accordance with Resolution [GT PLEN–1] (WRC–95) and taking into account Recommendation [COM4–B];

2 To examine the revised ITU-R Recommendations incorporated by reference in the Radio Regulations which have been communicated by the associated Radiocommunication Assembly, in accordance with Resolution [COM4–5]; and decide whether or not to update the corresponding references in the Radio Regulations, in accordance with

principles contained in the Annex to Resolution [COM4–4];

3 To consider such consequential changes and amendments to the Radio Regulations as may be necessitated by the decisions of the Conference;

4 In accordance with Resolution 94 (WARC–92), to review those resolutions and recommendations of world administrative radio conferences and world radiocommunication conferences which are relevant to agenda items 1 and 2 above with a view to their possible revision, replacement or abrogation;

5 To review, and take appropriate action on, the report from the Radiocommunication Assembly submitted in accordance with Nos. 135 and 136 of the Convention (Geneva, 1992);

6 To identify those items requiring urgent actions by the radiocommunication study groups in accordance with Resolution [GT PLEN-BB];

7 To consider the final report of the Director of the Radiocommunication Bureau on activities related to Resolution 18 (Kyoto, 1994);

8 In accordance with Article 7 of the Convention (Geneva, 1992):

8.1 To consider and approve the report of the Director of the Radiocommunication Bureau on the activities of the Radiocommunication Sector since the last Conference;

8.2 To recommend to the Council items for inclusion in the agenda for the 1999 World Radiocommunication Conference, and to give its views on the preliminary agenda for the 2001 Conference and on possible agenda items for future conferences, invites the Council to establish the agenda and make provision for WRC–97 and to initiate as soon as possible the necessary consultation with Members, instructs the Director of the Radiocommunication Bureau to make the necessary arrangements to convene meetings of the Conference Preparatory Meeting and to prepare a report to WRC–97, instructs the Secretary-General to communicate this Resolution to concerned international and regional organizations.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–2072 Filed 1–29–96; 1:22 pm]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1082–DR]

Delaware; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Delaware (FEMA–1082–DR), dated January 12, 1996, and related determinations.

EFFECTIVE DATE: January 12, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 12, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Delaware, resulting from ''the Blizzard of 1996'', which occurred on January 6–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Delaware.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jack Schuback of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2108 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1080–DR]

District of Columbia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the District of Columbia (FEMA–1080–DR), dated January 11, 1996, and related determinations.

EFFECTIVE DATE: January 11, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 11, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the District of Columbia, resulting from ''the Blizzard of 1996'', which occurred on January 6–10, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the District of Columbia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are

required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Gunter of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities in the District of Columbia.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2105 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1076–DR]

Georgia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Georgia (FEMA–1076–DR), dated December 20, 1995, and related determinations.

EFFECTIVE DATE: December 20, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated December 20, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Georgia, resulting from severe storms and tornadoes on November 7–8, 1995 is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Georgia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Glenn C. Woodard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Georgia to have been affected adversely by this declared major disaster:

The City of Albany located in Dougherty County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2104 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1089–DR]

Kentucky; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–1089–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: January 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 13, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky, resulting from ''the Blizzard of 1996'', which occurred on January 5–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Glenn C. Woodard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of

emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2100 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1081–DR]

Maryland; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maryland (FEMA–1081–DR), dated January 11, 1996, and related determinations.

EFFECTIVE DATE: January 11, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 11, 1996 , the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Maryland, resulting from ''the Blizzard of 1996'', which occurred on January 6–10, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Maryland.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jack Schuback of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. This assistance will be provided to the City of Baltimore and the counties of Anne Arundel, Baltimore, Carroll, Harford, Howard, Montgomery, and Prince George's.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2106 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1081–DR]

Maryland; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maryland (FEMA–1081–DR), dated January 11, 1996, and related determinations.

EFFECTIVE DATE: January 17, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster has been amended. The incident period for this disaster is January 6–12, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2091 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1094–DR]

Maryland; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maryland, (FEMA–1094–DR), dated January 23, 1996, and related determinations.

EFFECTIVE DATE: January 23, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Maryland, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 23, 1996:

Cecil County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2097 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1094–DR]

Maryland; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Maryland (FEMA–1094–DR), dated January 23, 1996, and related determinations.

EFFECTIVE DATE: January 23, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated

January 23, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Maryland, resulting from flooding on January 19, 1996, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Maryland.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance and Hazard Mitigation may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Adamcik of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Maryland to have been affected adversely by this declared major disaster:

The counties of Allegany, Frederick, Garrett and Washington for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2102 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1077–DR]

New Hampshire; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New Hampshire, (FEMA–1077–DR), dated January 3, 1996, and related determinations.

EFFECTIVE DATE: January 18, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New Hampshire, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 3, 1996:

Carroll, Cheshire, Merrimack and Sullivan Counties for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2090 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1088–DR]

New Jersey; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New Jersey (FEMA–1088–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: January 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 13, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of New Jersey, resulting from ''the Blizzard of 1996'', which occurred on January 6–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of New Jersey.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Agnes Mravcak of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2099 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1095–DR]

State of New York; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–1095–DR), dated January 24, 1996, and related determinations.

EFFECTIVE DATE: January 24, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 24, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of New York, resulting from severe storms and flooding on January 19, 1996, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance and Hazard Mitigation may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Joe Picciano of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of New York to have been affected adversely by this declared major disaster: Chemung, Delaware, Schoharie, Steuben, Sullivan, and Ulster for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2103 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1083–DR]

New York; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–1083–DR), dated January 12, 1996, and related determinations.

EFFECTIVE DATE: January 12, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 12, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of New York, resulting from ''the Blizzard of 1996'', which occurred on January 6, 1996 and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Additional assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Agnes Mravcak of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–2109 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1087–DR]

North Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Carolina (FEMA–1087–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: January 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 13, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as follows:

I have determined that the damage in certain areas of the State of North Carolina, resulting from ''the Blizzard of 1996'', which occurred on January 6–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of North Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a),

Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Glenn C. Woodard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 96–2098 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Pennsylvania (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 21, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 21, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Pennsylvania, resulting from flooding on January 19, 1996, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the Commonwealth of Pennsylvania.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance and Hazard Mitigation may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jack Schuback of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Pennsylvania to have been affected adversely by this declared major disaster:

Luzerne, Dauphin, Columbia, Montour, Perry, and Snyder for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2101 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 22, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Allegheny, Bedford, Blair, Bradford, Cambria, Centre, Clearfield, Cumberland, Fayette, Huntingdon, Lackawanna, Lycoming, McKean, Mifflin, Northumberland, Somerset, Westmoreland, Washington, Wyoming and York Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiawtkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2092 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 25, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Adams, Armstrong, Berks, Butler, Cameron, Carbon, Chester, Clarion, Crawford, Delaware, Elk, Erie, Forest, Franklin, Fulton, Greene, Indiana, Jefferson, Lancaster, Lawrence, Lebanon, Lehigh, Mercer, Montgomery, Northampton, Philadelphia, Pike, Potter, Schuylkill, Sullivan, Venango, Warren and Wayne Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2093 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 25, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include Public Assistance and Hazard Mitigation for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996.

The counties of Allegheny, Bedford, Bradford, Clinton, Dauphin, Huntingdon, Lackawanna, Luzerne, Lycoming, Potter, Susquehanna, Wayne, Westmoreland, and Wyoming Counties for Public Assistance and Hazard Mitigation. (Already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2094 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 24, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Bucks, Clinton, Juniata, Monroe, and Susquehanna Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2095 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: January 24, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

Beaver County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2096 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1085–DR]

Pennsylvania; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Pennsylvania (FEMA–1085–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: January 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 13, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as follows:

I have determined that the damage in certain areas of the Commonwealth of Pennsylvania, resulting from ''the Blizzard of 1996'', which occurred on January 6–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the Commonwealth of Pennsylvania.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Additional assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Jack Schuback of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities

without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2111 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1086–DR]

Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Virginia (FEMA–1086–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: January 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 13, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Virginia, resulting from ''the Blizzard of 1996'', which occurred on January 6–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the Commonwealth of Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Gunter of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2107 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1079–DR]

Washington; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Washington, (FEMA–1079–DR), dated January 3, 1996, and related determinations.

EFFECTIVE DATE: January 11, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Washington, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 3, 1996:

Clallam, Clark, Island, Jefferson, Kittitas, Mason, Pacific, and Whatcom Counties for Individual Assistance, Public Assistance and Hazard Mitigation; and

Thurston County for Public Assistance and Hazard Mitigation (already designated for Individual Assistance); and

Yakima County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 96–2088 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1084–DR]

West Virginia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA–1084–DR), dated January 13, 1996, and related determinations.

EFFECTIVE DATE: January 13, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 13, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of West Virginia, resulting from ''the Blizzard of 1996'', which occurred on January 6–12, 1996, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of West Virginia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. Other assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Robert J. Gunter of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

FEMA will provide reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities. County designations will be made at a later date.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 96–2110 Filed 1–31–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. § 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Seabourn Cruise Line Limited and Seabourn Maritime Management A/S, 55 Francisco Street, San Francisco, California 94133

Vessel: *Queen Odyssey*

Date: January 26, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–2002 Filed 1–31–96; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Seabourn Cruise Line Limited and Seabourn Maritime Management A/S, 55 Francisco Street, San Francisco, California 94133

Vessel: *Queen Odyssey*

Date: January 26, 1996.

Joseph C. Polking,

Secretary.

[FR Doc. 96–2003 Filed 1–3–96; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 96–02]

World Class Freight Inc. v. Worldlink Logistics, Inc. and Worldlink International; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by World Class Freight Inc. (''Complainant'') against Worldlink Logistics, Inc. and Worldlink International (''Respondents'') was served January 26, 1996. Complainant alleges that the Respondents have violated sections 8(a)(1), and 10(b)(1), (10, (11) and (12) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1707(a)(1) and 1709(b)(1), (10), (11) and (12), by having no tariff rate on file for a 40' container shipped CY/CY from Singapore to Los Angeles, demanding additional untariffed freight charges at destination in order to release the container, and seeking excessive freight charges from Respondents while not doing so from other shippers.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by January 27, 1997, and the final decision of the Commission shall be issued by May 27, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 96–2001 Filed 1–31–95; 8:45 am]

BILLING CODE 4730–01–M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Expeditors International (Puerto Rico), Inc., 65 Infantry Station, San Juan, Puerto Rico 00929, Officers: Kevin M. Walsh, President, Mario Alfonso, Treasurer/Secretary

EM Global Shipping Enterprises, 4350 Town Plaza, #200, Houston, TX 77036, Bassey Morgan Etukudo, Sole Proprietor

Mundus Shipping, Inc., 15 Broad Street, Williston Park, NY 11596, Officer: Jaroslaw Rogawski, President

Peter J. Jantzen, 750 Pratt, Elk Grove Village, IL 60007, Sole Proprietor

Metra Corporation, 1637 Holloway Road/P.O. Box 788, Holland, OH 43528–0788, Officers: Zuhair R. Kamal, President, Kathleen S. Kamal, Vice President

International Trade Logistics, Inc., Hemisphere Center, Suite 306, Routes 1 & 9 South, Newark, NJ 07114, Officer: Jean Aiello, President

Overseas Mahanm Inc., 82–02 138th Street, Kew Gardens, NY 11435, Officers, M. Loni, President, Parikshit Majumder, Vice President

S & T Shipping, 402 N. Boston Avenue, Deland, FL 32724, Timothy A. Voit, Sole Proprietor

A. J. Int'l Cargo, Inc., 7579 N.W. 50th Street, Miami, FL 33166, Officers: Ana M. Palma, President, Jaime F. Palma, Vice President

Dated: January 26, 1996.
Joseph C. Polking,
Secretary.
[FR Doc. 96–2010 Filed 1–31–96; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

Background

Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 C.F.R. 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829)

OMB Desk Officer—Milo Sunderhauf—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–7340)

Final approval under OMB delegated authority of the extension, without revision, of the following report:

1. Report title: Notification of Foreign Branch Status
Agency form number: FR 2058
OMB Control number: 7100–0069
Effective date: February 5, 1996
Frequency: On occasion
Reporters: State member banks, Edge and agreement corporations, and bank holding companies
Annual reporting hours: 20
Estimated average hours per response: 0.25
Number of respondents: 80
Small businesses are not affected.

General description of report: This information collection is required to obtain or retain a benefit (12 U.S.C. §§321, 601, 602, 615, and 1844(c)) and is not given confidential treatment.

Abstract: Member banks, bank holding companies, and Edge and agreement corporations are required to notify the Federal Reserve System of the opening, closing, or relocation of an approved foreign branch. The notice requests information on the location and extent of service provided by the branch, and is filed within thirty days of the change in status. The Federal Reserve needs the information to fulfill its statutory obligation to supervise foreign branches of U.S. banking organizations. Minor clarifying changes have been made to the form and instructions.

Regulation K, ''International Banking Operations,'' sets forth the conditions under which a foreign branch may be established. For their initial establishment of foreign branches, organizations must request prior Board approval as directed in Attachment A of the FR K–1, ''International Applications and Prior Notifications Under Subparts A and C of Regulation K'' (OMB No. 7100–0107). For subsequent branch establishments into additional foreign countries, organizations must give the Federal Reserve System forty-five days prior written notice using Attachment B of FR K–1. Organizations use the FR 2058 notification to notify the Federal Reserve when any of these branches has been opened, closed, or relocated.

The changes in the FR 2058 instructions clarify the scope of the branch status changes that require notification to the Federal Reserve. Information on changes in status of additional branches within the same country in which such a subsidiary is incorporated is not required. Also, the instructions have been clarified to reflect that a notice should be filed for foreign branches of subsidiaries acquired or divested by the institution. The FR 2058 notification form also has been better formatted to elicit the effective date of the branch status change and whether the branch is a shell or a full service branch.

Regulatory Flexibility Act Analysis: The Board certifies that the above reporting requirements are not expected to have a significant economic impact on small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

2. Information collection title: Disclosure Requirements in Connection with Regulation CC to implement the Expedited Funds Availability Act
Agency form number: None
OMB Control number: 7100–0235
Frequency: Event-generated
Respondents: State member banks
Annual reporting hours: 171,900
Estimated average hours per response: Notice of exceptions, Case by case hold notice, or Notice to potential customers upon request: 3 minutes; Notice posted where consumers make deposits: 15 minutes; Notice of changes in policy: 20 hours; and Annual notice of new ATMs: 5 hours.
Number of respondents: 975
Small businesses are affected.

General description of information collection: This information collection is mandatory (12 U.S.C. § 4008). No issue of confidentiality under the Freedom of Information Act normally arises.

Abstract: The third party disclosure requirements are intended to alert consumers about their financial institutions' check-hold policies and to help prevent unintentional (and costly) overdrafts. Most disclosures must be made within one banking day of the triggering event. Disclosures resulting from a policy change must be made thirty days before action is taken, or within thirty days if the action makes funds available more quickly. Model forms, clauses, and notices are appended to the regulation to provide guidance.

The Board's Regulation CC applies to all depository institutions, not just state member banks. However, under Paperwork Reduction Act regulations, the Federal Reserve accounts for the burden of the paperwork associated with the regulation only for state member banks. Other agencies account for the Regulation CC paperwork burden on their respective constituencies.

Regulatory Flexibility Act Analysis: The Board certifies that the extension of the above disclosure requirements are not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

3. Information collection title: Recordkeeping Requirements Associated with the Real Estate Lending Standards Regulation (12 CFR 208.51)
Agency form number: None
OMB Control number: 7100–0261
Frequency: Annual
Respondents: State member banks
Annual reporting hours: 39,000
Estimated average hours per response: 40
Number of respondents: 975
Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. § 1828(o)). No issue of confidentiality under the Freedom of Information Act normally arises.

Abstract: This information collection is a recordkeeping requirement contained in the Board's Regulation H (12 CFR 208.51) that implements section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). The requirement is to adopt and maintain a written real estate

lending policy that is consistent with safe and sound lending practices. There is no formal reporting form and the information is not submitted to the Federal Reserve.

Regulatory Flexibility Act Analysis: The Board certifies that the extension of the above recordkeeping requirements are not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Board of Governors of the Federal Reserve System, January 26, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96-2077 Filed 1-31-96; 8:45AM]

BILLING CODE 6210–01–F

Proposed Agency Information Collection Activities; Comment

AGENCY: Board of Governors of the Federal Reserve System (Board)

ACTION: Notice and request for comment.

BACKGROUND: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Board may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number. The following currently approved collection of information has received approval from the Federal Financial Institutions Examination Council (FFIEC), of which the Board is a member, and is hereby published for comment. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the information collection may be modified prior to the agencies' submission of them to OMB for review and approval. Comments are invited on:

(a) whether the collection of information is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) the accuracy of the agencies' estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before April 1, 1996.

ADDRESSES: Interested parties are invited to submit written comments the agency listed below. All comments should refer to the OMB control number.

Written comments should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Milo Sunderhauf, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the reporting form and instructions may be requested from the agency clearance officers whose name appears below.

Mary M. McLaughlin, Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. For the hearing impaired *only,* Telecommunications Device for the Deaf (TDD), Dorothea Thompson, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Proposal to extend, without revision, the following currently approved collection of information:

Title: Monthly Consolidated Foreign Currency Report

Form Number: FFIEC 035

OMB Number: 7100–0178.

Frequency of Response: Monthly.

Affected Public: U.S. banks and U.S. branches and agencies of foreign banks.

Estimated Number of Respondents: 116

Estimated Time per Response: 12.68 burden hours.

Estimated Total Annual Burden: 17,651 burden hours.

General Description of Report: This information collection is mandatory: 12 U.S.C. 248(a) and 1844(c) and is given confidential treatment.

Small businesses are not affected.

Abstract: The data collected on the monthly report is used primarily by the three federal bank regulatory agencies (i.e., the Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation) to monitor the foreign exchange activities of individual U.S. banks and banking institutions. On an aggregate basis, the three agencies make considerable use of the data in monitoring and analyzing developments in foreign exchange markets. Such data are used to identify changing market practices and bank reactions to disruptions in foreign exchange markets. On an individual bank basis, the data are used in monitoring a bank's foreign exchange activities to assure that they are being conducted in a safe and sound manner. The report is collected and processed by the Federal Reserve on behalf of the three agencies. The proposed extension, without revision, of the Monthly Consolidated Foreign Currency Report (FFIEC 035) that is the subject of this notice has been approved by the FFIEC for implementation as of the March 31, 1996, report date.

REQUEST FOR COMMENT

Comments submitted in response to this Notice will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Board of Governors of the Federal Reserve System, January 26, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96-2076 Filed 1–31-96; 8:45AM]

BILLING CODE 6210–01–F

Farmers State Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 25, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Farmers State Corporation, Mountain Lake, Minnesota, and Bank Southwest Corporation, Worthington, Minnesota; to acquire 100 percent of the voting shares of First Security Bank-Madison, Madison, Minnesota.

2. JRS Investments, Limited Partnership, Billings, Montana, to become a bank holding company by acquiring 7.18 percent of the voting shares of First Interstate BancSystem of Montana, Inc., Billings, Montana, and thereby indirectly acquire First Interstate Bank of Commerce, Billings, Montana, and First Interstate Bank of Commerce, Sheridan, Wyoming.

3. Nbar5, Limited Partnership, Ranchester Wyoming, to become a bank holding company by acquiring 15.43 percent of the voting shares of First Interstate BancSystem of Montana, Inc., Billings, Montana, and thereby indirectly acquire First Interstate Bank of Commerce, Billings, Montana, and First Interstate Bank of Commerce, Sheridan, Wyoming.

4. Norwest Corporation, Minneapolis, Minnesota; to acquire 100 percent of the voting shares of AmeriGroup, Incorporated, Minnetonka, Minnesota, and thereby indirectly acquire AmeriBank, Bloomington, Minnesota.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Southern Colorado Bank Holding Company, Pagosa Springs, Colorado; to acquire 100 percent of the voting shares of Mancos Bancorporation, Inc., Mancos, Colorado, and thereby indirectly acquire Mancos Valley Bank, Mancos, Colorado.

Board of Governors of the Federal Reserve System, January 26, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–2042 Filed 1–31–96; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Notice of Availability DEIS

The General Services Administration (GSA) announces the release of the Draft Environmental Impact Statement (DEIS), for the siting and proposed construction of a new Courthouse Annex in the Central Business Area (CBA) of Savannah, Georgia, A 45-day public comment period begins February 2 and runs through March 18, 1996.

The DEIS has examines the impacts of constructing an Annex of the existing Courthouse in the Savannah CBA. This includes impacts to historic and cultural resources, traffic and parking, and socioeconomic (including the impacts of local businesses). The DEIS examines ways to mitigate unavoidable adverse impacts of the proposed action. Concurrent with implementation of the National Environmental Policy Act requirements, GSA has also implemented its consultation requirements under Section 106 of the National Historic Preservation Act, regarding the impacts of historic properties as a result of undertaking the proposed action. GSA is very much aware of the potential for adverse affects to the National Historic Landmark District as a result of the proposed action, and has made every effort to identify and take into account such affects while planning this project.

The New Courthouse will house approximately 250 employees in an 165,000 to 180,000 occupiable square feet (osf) structure(s) that will meet the 10-year and 30-year space requirements of the US Courts. The project will contain four courtrooms, and office space for Court-related agencies, as well as space for GSA. After an exhaustive process of site identification and site screening, three potential sites and four alternative configurations, and the ''No Action'' alternative, were considered technically feasible and analyzed in the DEIS as follows:

- 1. ''No Action,'' that is, undertake no new construction.
- 2. Construction of a single 165,000 osf building 80 feet tall on the sites of the current Juliette Gordon Low Federal Buildings A & B including building over President Street. This is the GSA preferred alternative.
- 3. Construction of two buildings with a total of 180,000 osf, 133 feet tall, on the sites of the current Juliette Gordon Low Buildings A & B and not building over President Street.
- 4. Partial demolition and construction of the site of the Juliette Gordon Low Building currently housing the US Army Corps of Engineers.
- 5. Construction north of the existing Courthouse on a 1.4 acre parcel bounded by State, Bull, Broughton, and Whitaker Street, leaving undisturbed the two buildings facing Bull, Street, demolishing the remaining structures, and closing and building over Broughton Lane.

As part of the public comment process, you are encouraged to contact GSA in writing at the following address with your comments regarding the DEIS: Mr. Philip Youngberg, Regional Environmental Officer—4PT, 401 West Peachtree Street, NW., Suite 3015, Atlanta, GA 30365–2550; or FAX your comments to Mr. Youngberg at 404–331–4540. Comments should be postmarked no later than Monday, March 18, 1996.

GSA will conduct a Public Meeting to solicit comments for the DEIS. A Notice of this meeting and all subsequent public meetings conducted by GSA for this project will appear in the Savannah News-Press at least two weeks prior to the meeting date.

Dated: January 23, 1996.

Phil Youngberg,

Regional Environmental Officer (4PT).

[FR Doc. 96–2123 Filed 1–31–96; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Commission on Dietary Supplement Labels: Announcement of Appointment; Notice of Meeting; Opportunity to Provide Comments

AGENCY: Office of Disease Prevention and Health Promotion.

SUMMARY: The Department of Health and Human Services (HHS) is (a) announcing the appointment of the Commission on Dietary Supplement Labels, (b) providing notice of the first meeting of the Commission pending approval of the Commission's Charter, (c) receipt of information on current Department of Health and Human Services activities related to dietary supplements, and (d) soliciting oral and written comments.

DATES: (1) The Commission will meet February 16, 1996, from 8:30 a.m. to 4:30 p.m. E.S.T. at the Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, DC 20008. (2) Written comments on the scope and intent of the Commission's objectives may be submitted up to 5 p.m. E.S.T. on June 30, 1996.

FOR FURTHER INFORMATION CONTACT: Kenneth D. Fisher, Ph.D., Executive Director, Commission on Dietary Supplement Labels, Office of Disease Prevention and Health Promotion, Room 738G, Hubert H. Humphrey Building, 200 Independence Ave. SW., Washington, DC 20201, (202) 205–5968.

SUPPLEMENTARY INFORMATION:

Commission on Dietary Supplement Labels

The President announced his intent to appoint the following seven persons as members of the Commission on October 2, 1995. The Commission is chaired by Malden Nesheim, Cornell University, Ithaca, New York. Other members of the Commission are Annette Dickenson, Council for Responsible Nutrition, Washington, DC; Norman R. Farnsworth, University of Illinois at Chicago, Chicago, Illinois; Margaret Gilhooley, Seton Hall University, School of Law, Newark, New Jersey; Shiriki Kumanyika, Pennsylvania State College of Medicine, Hershey, Pennsylvania; Robert McCaleb, Herb Research Foundation, Boulder, Colorado; and Anthony Podesta, Podesta Associates, Washington, DC.

Commission's Task

Public Law 103–417, Section 12, authorizes the establishment of a Commission on Dietary Supplement Labels whose seven members are appointed by the President. The appointments to the Commission by the President and the establishment of the Commission by the Secretary of Health and Human Services reflect the commitment of the President and the Secretary to the development of a sound and consistent regulatory policy on labeling of dietary supplements.

The Commission is charged with conducting a study and providing recommendations for regulation of label claims and statements for dietary supplements, including the use of supplemental literature in connection with their sale and, in addition, procedures for evaluation of label claims. The Commission is expected to evaluate how best to provide truthful, scientifically valid, and nonmisleading information to consumers in order that they make informed health care choices for themselves and their families. The Commission's study report may include recommendations on legislation, if appropriate and necessary.

Announcement of Meeting

The Commission's first meeting will be February 16, 1996, 8:30 a.m. to 4:30 p.m. E.S.T. The meeting will be held at the Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008. The agenda will include (a) orientation, (b) discussion of the Commission's charge, (c) receipt of information on current Department of Health and Human Services activities related to dietary supplements, and (d) oral comments from interested parties and the general public.

Public Participation at Meeting

The meeting is open to the public. However, space is limited. Both oral and written comments from the public will be accepted, but oral comments at the meeting will be limited to a maximum of five minutes per presenter; thus, organizations and persons that wish to make their views known to the Commission should use the time for oral presentation to summarize their written comments. Members of the Commission may wish to question the presenters following each oral presentation. Please request the opportunity to present oral comments in writing and provide nine (9) copies of the written comments from which the oral presentation is abstracted to the address above by February 9, 1996. If you will require a sign language interpreter, please call Sandra Saunders (202) 260–0375 by 4:30 p.m. E.S.T. on February 9, 1996.

Written Comments

By this notice, the Commission is soliciting submission of written comments, views, information and data pertinent to Commission's task. Comments should be sent to Kenneth D. Fisher, Executive Director of the Commission at the Office of Disease Prevention and Health Promotion, Room 738G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201, by 5 p.m. E.S.T. on June 30, 1996.

Claude Earl Fox,

Deputy Assistant Secretary for Health, (Disease Prevention and Health Promotion), U.S. Department of Health and Human Services.

[FR Doc. 96–1858 Filed 1–31–96; 8:45 am]

BILLING CODE 4160–17–M

Health Care Financing Administration

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services (DHHS), has submitted to the Office of Management and Budget (OMB) the following requirement for Emergency review. We are requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 CFR Part 1320, in order to prevent hospitals from inappropriately transferring individuals with emergency medical conditions, as mandated by Congress. The Agency cannot reasonably comply with the normal clearance procedures because public harm is likely to result if normal clearance procedures are followed. Without this information, HCFA could not assure compliance with this Congressional mandate.

HCFA is requesting that OMB provide a two-day review and a 90-day approval. During this 90-day period HCFA will publish a separate Federal Register notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. Then HCFA will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Collection Request: Emergency (This is an identical package to the one that was approved in January, 1995. This is not a new package.); *Title of Information Collection:* Information Collection Requirements Contained in BPD–393, Examination and Treatment for Emergency Medical Conditions and Women in Labor; *Form No.:* HCFA–R–142; *Use:* BPD–393 contains information collection requirements for hospitals that would seek to prevent them from inappropriately transferring individuals with emergency medical conditions, as mandated by Congress. HCFA will use this information to help assure compliance with this mandate. This information is not contained elsewhere in regulations. *Frequency:* On occasion; *Affected Public:* Individuals or households, not-for-profit institutions, Federal Government, and State, local or tribal government; *Number of*

Respondents: 7,000; *Total Annual Responses:* 7,000; *Total Annual Hours Requested:* 8,818,577.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 2 working days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: January 25, 1996.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96–2124 Filed 1–31–96; 8:45 am]

BILLING CODE 4120–03–P

Health Resources and Services Administration

Program Announcement for Contracts for the Disadvantaged Health Professions Faculty Loan Repayment Program for Fiscal Year 1996

The Health Resources and Services Administration (HRSA) announces that applications for contracts for fiscal year (FY) 1996, for the Disadvantaged Health Professions Faculty Loan Repayment Program (FLRP) are now being accepted under section 738(a) of the Public Health Service Act (The Act).

This program announcement is subject to reauthorization of the legislative authority and to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should authority and funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. At this time, given a continuing resolution and the absence of FY 1996 appropriations for title VII programs, the amount of available funding for this program cannot be estimated.

Purpose

The purpose of the Disadvantaged Health Professions Faculty Loan Repayment Program (FLRP), authorized by section 738(a), is to attract disadvantaged health professionals into faculty positions in accredited health professions schools. The program provides a financial incentive for degree-trained health professions personnel from disadvantaged backgrounds who will serve as members of the faculties of those schools. The FLRP is directed at those individuals available to serve immediately or within a short time as ''new'' full-time faculty members. Loan repayment may be provided only for an individual who has *not* been a member of the faculty of any school at any time during the 18-month period preceding the date on which the Secretary receives the request of the individual for a repayment contract (i.e., ''new'' faculty).

Section 738(b) makes available grants and contracts with schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, health administration, clinical psychology and other public or private nonprofit health or educational entities to assist in increasing the number of underrepresented minority faculty. Section 738(b) will be implemented as a separate program.

Eligible Individuals

Individuals from disadvantaged backgrounds are eligible to compete for participation in the FLRP if they:

1. Have degrees in medicine, osteopathic medicine, dentistry, nursing, pharmacy, podiatric medicine, optometry, veterinary medicine, public health or clinical psychology; or
2. Are enrolled in an approved graduate training program in one of the health professions listed above; or
3. Are enrolled as full-time students in the final year of health professions training, leading to a degree from an eligible school.

Established faculty members are not eligible to apply for funds under the FLRP. Only individuals that have not taught in the last 18 (eighteen) months prior to application to the program will be considered.

Statutory Requirements

Prior to submitting an application for a contract for loan repayment, individuals must sign a contract with an eligible school, as prescribed by the Secretary, setting forth the terms and conditions of the FLRP. This contract with the school must require the individual to serve as a full-time member of the faculty, as determined by the school, for not less than 2 years, whereby the school agrees to pay, for each year, a sum (in addition to faculty salary) equal to that paid by the Secretary towards the repayment of principal due on the applicant's health professions educational loans. Additionally, the individual involved may not have been a member of the faculty of any school at any time during the last 18 months prior to application to the program.

Eligible Schools

Eligible schools are public or nonprofit private accredited schools of medicine, nursing, as defined in section 853 of the Act, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine or public health, or schools that offer graduate programs in clinical psychology and which are located in States as provided in section 799 of the Act.

Provisions of the Loan Repayment Program

Section 738(a) authorizes repayment, for each year of service, as much as 20 percent of the outstanding principal and interest on the individuals educational loans, not to exceed $20,000 for any given year. The school pays an equal amount, unless the Secretary determines that the repayment will impose an undue financial hardship on the school in which case, the Secretary may pay up to the entire 20 percent.

The school is required, for each such year, to make payments of principal and interest in an amount equal to the amount of payment made by the Secretary for that year. These payments must be in addition to the faculty salary the participant otherwise would receive.

Allowable educational loan repayment expenses include the following:

1. Tuition expenses;
2. All other reasonable educational expenses such as fees, books, supplies, educational equipment and materials required by the school, and incurred by the applicant;
3. Reasonable living expenses, as determined by the Secretary; and
4. Partial payments of the increased Federal income tax liability caused by the FLRP's payments and considered to be ''other income,'' if the recipient requests such assistance.

Prior to entering into a contract for repayment of loans, the Secretary requires satisfactory evidence of the existence and reasonableness of the individual's educational loans, including a copy of the original written loan agreement establishing the outstanding educational loan.

Waiver Provision

In the event of undue financial hardship to a school, the school may obtain from the Secretary a waiver of its share of payments while the participant

is serving under the terms of the contract. For purposes of this program, ''undue financial hardship'', as seen by the Secretary, is based on a school's particular financial status as influenced by such circumstances as budget cutbacks. Decisions will be made on a case-by-case basis, and must be supported by the school's documentation of comparative yearly financial allocation of funds; or the most current certified public accounting audit, including the Balance Sheet and Statement of Income and Expenses for the past several years.

If the Secretary waives the school's payment requirement, the amount of the Federal loan repayment may be up to the full 20 percent described above (regardless of the ''equal amount'' provision described above), but cannot exceed the $20,000 repayment limit. The participant must pay that portion of loan payment due which is not covered.

The following Definitions, Program Requirements, Review Criteria and Funding Preference were established in FY 1991 after public comment dated October 2, 1991, at 56 FR 49896, and the Secretary is extending them in FY 1996.

Definitions

For purposes of the FLRP in FY 1996, an ''Individual from a Disadvantaged Background'' is defined as in 42 CFR 57.1804, as one who:

1. Comes from an environment that has inhibited the individual from obtaining the knowledge, skill, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in an allied health profession; or

2. Comes from a family with an annual income below a level based on low income thresholds according to a family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in health professions and nursing programs. The Secretary will periodically publish these income levels in the Federal Register. The following income figures determine what constitutes a low income family for purposes of the Faculty Loan Repayment Program for FY 1996.

Size of parents' family [1]	Income level [2]
1	$10,000
2	12,900
3	15,400
4	19,700
5	23,200
6 or more	26,100

[1] Includes only dependents listed on Federal income tax forms.

[2] Adjusted gross income for calendar year 1994 rounded to $100.

The term ''Living expenses'' means the costs of room and board, transportation and commuting costs, and other costs incurred during an individual's attendance at a health professions school, as estimated each year by the school as part of the school's standard student budget. (National Health Service Corps Loan Repayment Program, 42 CFR part 62.22)

The term ''Reasonable educational expenses and living expenses'' means the costs of those educational and living expenses which are equal to or less than the sum of the school's estimated standard student budgets for educational and living expenses for the degree program and for the year(s) during which the Program participant is/was enrolled in the school. (National Health Service Corps Loan Repayment Program, 42 CFR part 62.22)

The term ''Unserved Obligation Penalty'' means the amount equal to the number of months of obligated service that were not completed by an individual, multiplied by $1,000, except that in any case in which the individual fails to serve 1 year, the unserved obligation penalty shall be equal to the full period of obligated service multiplied by $1,000. (Section 338E of the Act) See ''Breach of Contract'' section below.

Program Requirements

The following requirements will be applied to the applicant and to the school.

The Applicant

The applicant will be required to do the following:

1. Submit a completed application, including the applicant's contract with an eligible school to serve as a full- time faculty member for not less than 2 years;

2. Provide evidence that the applicant has completely satisfied any other obligation for health professional service which is owed under an agreement with the Federal Government, State Government, or other entity prior to beginning the period of service under this program;

3. Certify that the United States does not hold a judgment against the applicant; and

4. Provide documentation to evidence the educational loans and to verify their status.

The School

The school will be required to do the following:

1. Enter into a contractual agreement with the applicant whereby the school is required, for each year for which the participant serves as a faculty member, to make payments of principal and interest in an amount equal to the amount of such quarterly payments made by the Secretary. These payments must be in addition to the faculty salary the participant otherwise would receive.

2. Verify the participant's continuous employment at intervals as prescribed by the Secretary.

The Secretary will pay participants in equal quarterly payments during the period of service.

Effective Date of Contract

After an applicant has been approved for participation in the FLRP, the Director, Division of Disadvantaged Assistance (DDA), will send the applicant a contract with the Secretary. The effective date is either the date work begins at the school as a faculty member or the date the Director, DDA, signs the FLRP contract, whichever is later. Service should begin no later than September 30, 1996.

Breach of Contract

The following areas under Breach of Contract are addressed in the appended contract:

1. If the participant fails to serve his or her period of obligated faculty service (minimum of 2 years) as contracted with the school, he/she is then in breach of contract, and neither the Secretary nor the school is obligated to continue loan repayments as stated in the contract. The participant must then reimburse the Secretary and the participating school for all sums of principal and interest paid on his/her behalf as stated in the contract in addition to any income tax assistance he/she may have received.

2. Regardless of the length of the agreed period of obligated service (2, 3, or more years), a participant who serves less than the time period specified in his/her contract is liable for monetary damages to the United States amounting to the sum of the total of the amounts the Program paid him/her, plus an ''unserved obligation penalty'' of $1,000 for each month unserved.

3. Any amount which the United States is entitled to recover because of a breach of the FLRP contract must be paid within 1 year from the day the Secretary determines that the participant is in breach of contract. If payment is not received by the payment date, additional interest, penalties and

administrative charges will be assessed in accordance with Federal Law (45 CFR 30.13).

Review Criteria

The HRSA will review fiscal year 1996 applications taking into consideration the following criteria:

1. The extent to which the applicant meets the requirements of section 738(a) of the Act;
2. The completeness, accuracy, and validity of the applicant's responses to application requirements;
3. The submission of the signed contract with the school;
4. An applicant's earliest available date to begin service as a faculty member provided funding is available for that year; and
5. An applicant's availability to enter into a service contract for a longer period than the mandatory 2-year minimum.

Factors to assure equitable distribution (e.g. geographic, discipline) will be considered in determining the funding of completed applications.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Disadvantaged Health Professions Faculty Loan Repayment Program is related to the priority area of Educational and Community-Based Programs. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017–001- 00474–0) or *Healthy People 2000* (Summary Report; Stock No. 017-001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone (202) 783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Application Requests

Requests for application materials and questions regarding program information and business should be directed to: Lafayette Gilchrist, Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Room 8A–09, Rockville, Maryland 20857, Telephone: (301) 443–3680, FAX: (301) 443–5242.

Completed applications should be returned to the address listed above. The application deadline date is June 30, 1996. Applications shall be considered to be ''on time'' if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

The application form and instructions for this program have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0915- 0150.

The Disadvantaged Health Professions Faculty Loan Repayment Program is listed at 93.923 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: January 25, 1996.

Ciro V. Sumaya,

Administrator.

[FR Doc. 96–1978 Filed 1–31–96; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (15 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) Meetings:

Purpose/Agenda: To review Small Business Innovation Research.
Name of SEP: Multidisciplinary Sciences.
Date: February 8–9, 1996.
Time: 7:00 p.m.
Place: Marriott Hotel, Newport Beach, California.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: Multidisciplinary Sciences.
Date: April 1–3, 1996.
Time: 7:00 p.m.
Place: Bethesda Marriott Hotel, Bethesda, Maryland.
Contact Person: Dr. Nabeeh Mourad, Scientific Review Administrator, 6701 Rockledge Drive, Room 5110, Bethesda, Maryland 20892, (301) 435–1168.

Purpose/Agenda: To review individual grant applications.
Name of SEP: Multidisciplinary Sciences.
Date: February 12–14, 1996.
Time: 8:30 p.m.
Place: Sheraton Boston Hotel and Towers, Boston, MA.
Contact Person: Dr. Marjam Behar, Scientific Review Administrator, 6701 Rockledge Drive, Room 5218, Bethesda, Maryland 20892, (301) 435–1180.

This notice is being published less than 15 days prior to the meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: Clinical Sciences.
Date: February 26–28, 1996.
Time: 8:00 a.m.
Place: Ramada Inn, Bethesda, Maryland.
Contact Person: Dr. Ronald Suddendorf, Scientific Review Administrator, 6000 Executive Blvd., Room 409, Bethesda, Maryland 20892, (301) 443–2932.

Name of SEP: Clinical Sciences.
Date: February 26–28, 1996.
Time: 8:00 a.m.
Place: Ramada Inn, Bethesda, Maryland.
Contact Person: Dr. Jules Selden, Scientific Review Administrator, 6701 Rockledge Drive, Room 4108, Bethesda, Maryland 20892, (301) 435–1785.

Name of SEP: Clinical Sciences.
Date: February 26–28, 1996.
Time: 8:00 a.m.
Place: Ramada Inn, Bethesda, Maryland.
Contact Person: Dr. Antonio Noronha, Scientific Review Administrator, 6000 Executive Blvd., Room 409, Bethesda, Maryland 20892, (301) 443–9419.

Name of SEP: Multidisciplinary Sciences.
Date: February 28–March 1, 1996.
Time: 7:00 p.m.
Place: University Inn, Champaign, Illinois.
Contact Person: Dr. Harish Chopra, Scientific Review Administrator, 6701

Rockledge Drive, Room 5112, Bethesda, Maryland 20892, (301) 435–1169.

Name of SEP: Multidisciplinary Sciences.
Date: March 11, 1996.
Time: 8:00 a.m.
Place: Embassy Suites, Washington, DC.
Contact Person: Dr. Eileen Bradley, Scientific Review Administrator, 6701 Rockledge Drive, Room 5214, Bethesda, Maryland 20892, (301) 435–1178.

Name of SEP: Microbial and Immunological Sciences.
Date: March 27–28, 1996.
Time: 8:00 a.m.
Place: Holiday Inn-Bethesda, Bethesda, Maryland.
Contact Person: Dr. Jean Hickman, Scientific Review Administrator, 6701 Rockledge Drive, Room 4178, Bethesda, Maryland 20892, (301) 435–1146.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 26, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2025 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of a Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Heart, Lung, and Blood Special Emphasis Panel (SEP) meeting:

Name of SEP: Specialized Centers of Research in Cellular and Molecular Mechanisms of Asthma, Pathobiology of Lung Development, and Pathobiolgy of Fibrotic Lung Disease Parent Committee.
Date: March 25–26, 1996.
Time: 8:00 a.m.
Place: Bethesda Holiday Inn, Bethesda, Maryland.
Contact Person: Dr. Deborah Beebe, Rockledge II, Room 7206, 6701 Rockledge Drive, Bethesda, MD 20892, 301/435–0303.
Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Disease Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: January 26, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2028 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Initial Review Group (IRG) meeting:

Name of IRG: Heart, Lung, and Blood Program Project Review Committee.
Date: March 20–21, 1996.
Time: 8:00 a.m.
Place: Holiday Inn Chevy Chase, Chevy Chase, Maryland.
Contact Person: Dr. Jeffrey H. Hurts, 6701 Rockledge Drive, Rm. 7208, Bethesda, Maryland 20892, (301) 435–0303.
Purpose/Agenda: To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: January 26, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2029 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: Hepatitis C Cooperative Research Centers.
Date: February 13–15, 1996.
Time: 8:00 a.m.
Place: Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, MD 20814, (301) 654–1000.
Contact Person: Dr. Stanley Oaks, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C06, Bethesda, MD 20892–7610, (301) 496–7042.
Purpose/Agenda: To evaluate cooperative agreement applications.

The meeting will be closed in accordance with the provisions set forth in secs 552(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: January 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2022 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Health

National Institute of Child Health and Human Development; Notice of Meeting of the National Advisory Child Health and Human Development Council

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council on February 23, 1996, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting will be conducted via a telephone conference call originating in the Natcher Conference Center, Building 45, Conference Rooms E1 and E2.

In accordance with the provisions set forth in sections 552b(c)(4), and 552b(c)(6), Title 5, United States Code and sections 10(d) of Public Law 92–463, the meeting of the full Council will be closed to the public on February 23 from 10:00 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or

commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Mary Plummer, Executive Secretary, NICHD, 6100 Executive Boulevard, Room 5E03, National Institutes of Health, Bethesda, Maryland 20892–7510, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Council members.

(Catalog of Federal Domestic Assistance Program Nos. 93.864, Population Research, and 93.865, Research for Mothers and Children, National Institutes of Health.)

Dated: January 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2026 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its Subcommittees

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its subcommittees, National Institute of Diabetes and Digestive and Kidney Diseases, on February 8, 1996. The meeting of the full Council will be open to the public February 8, from 8 a.m. to 9:30 a.m. in Conference Room 10, Building 31C, National Institutes of Health, Bethesda, Maryland, to discuss administrative issues relating to Council business and special reports. The following subcommittee meetings will be open to the public February 8 from 10 a.m. to 10:30 a.m.: Diabetes, Endocrine and Metabolic Diseases Subcommittee meeting will be held in Conference Room 10, Building 31C; Digestive Diseases and Nutrition Subcommittee meeting will be held in Conference Room 7, Building 31C; and Kidney, Urologic and Hematologic Diseases Subcommittee meeting will be held in Conference Room 9, Building 31C. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meetings of the subcommittees and full Council will be closed to the public for the review, discussion and evaluation of individual grant applications. The following subcommittees will be closed to the public on February 8, from 10:30 a.m. to 2:30 p.m.: Diabetes, Endocrine and Metabolic Diseases Subcommittee; Digestive Diseases and Nutrition Subcommittee; and Kidney, Urologic and Hematologic Diseases Subcommittee. The full Council meeting will be closed from 2:30 p.m. to 4 p.m. on February 8. These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosures of which would constitute a clearly unwarranted invasion of personal privacy.

For any further information, and for individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Walter Stolz, Executive Secretary, National Diabetes and Digestive and Kidney Diseases Advisory Council, NIDDK, Natcher Building, Room 6AS–25C, Bethesda, Maryland 20892, (301) 594–8834, in advance of the meeting.

In addition, upon request, a summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIDDK, Building 31, Room 9A07, National Institute of Health, Bethesda, Maryland 20892, (301) 496–6623.

This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institute of Health.)

Dated: January 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2024 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: Clinical Centers and Special Projects Review Committee.
Date: February 20–February 23, 1996.
Time: 9 a.m.
Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Phyllis L. Zusman, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–1340.

Committee Name: Social and Group Processes Review Committee.
Date: February 22–February 23, 1996.
Time: 8:30 a.m.
PLace: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Rehana A. Chowdhury, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–6470.

Committee Name: Psychobiology, Behavior, and Neuroscience Review Committee.
Date: February 22–February 23, 1996.
Time: 9 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: William H. Radcliffe, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936.

Committee Name: Child/Adolescent Development, Risk, and Prevention Review Committee.
Date: February 22–February 23, 1996.
Time: 9 a.m.
Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Phyllis D. Artis, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone; 301–443–6470.

Committee Name: Molecular, Cellular, and Developmental Neurobiology Review Committee.
Date: February 26–February 27, 1996.
Time: 8 a.m.
Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Donna Ricketts, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936.

Committee Name: Perception and Cognition Review Committee.
Date: February 29–March 1, 1996.
Time: 9 a.m.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Regina M. Thomas, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936.

Committee Name: Violence and Traumatic Stress Review Committee.
Date: March 4–March 5, 1996.
Time: 8:30 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Sheri L. Schwartzback, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–3936.

Committee Name: Epidemiology and Genetics Review Committee.
Date: March 4–March 5, 1996.

Time: 8:30 a.m.
Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Shirley Williams, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301–443–1367.

Committee Name: Mental Health AIDS and Immunology Review Committee—2.
Date: March 14—March 15, 1996.
Time: 8:30 a.m.
Place: One Washington Circle, One Washington Circle, N.W., Washington, DC 20037.
Contact Person: Rehana A. Chowdhury, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: Clinical Neuroscience and biological Psychopathology Review Committee.
Date: March 18—March 19, 1996.
Time: 9 a.m.
Place: Hampshire Hotel, 1310 New Hampshire Ave., N.W., Washington, DC 20036.
Contact Person: Maureen L. Eister, Parklawn Building, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: Mental Health AIDS and Immunology Review Committee—1.
Date: March 18—March 19, 1996.
Time: 8:30 a.m.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.
Contact Person: Regina M. Thomas, Parklawn Building, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: Neuropharmacology and Neurochemistry Review Committee
Date: March 21—March 22, 1996.
Time: 8:30 a.m.
Place: Hampshire Hotel, 1310 New Hampshire Ave., N.W., Washington, DC 20036.
Contact Person: Shirley H. Maltz, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: Cognitive Functional Neuroscience Review Committee.
Date: March 28—March 29, 1996.
Time: 9 a.m.
Place: One Washington Circle, One Washington Circle, N.W., Washington, DC 20037.
Contact Person: Shirley H. Maltz, Parklawn, Room 9–101, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3936.

Committee Name: Child Psychopathology and Treatment Review Committee.
Date: March 28—March 29, 1996.
Time: 8:30 a.m.
Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Angela L. Redlingshafer, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

Committee Name: Mental Health Small Business Research Review Committee.
Date: April 22—April 23, 1996.
Time: 9 a.m.
Place: River Inn, 924 25th Street NW, Washington, DC 20037.
Contact Person: Richard Johnson, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: January 23, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2020 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Nursing Research; Notice of Meeting of the National Advisory Council for Nursing Research and Its Subcommittee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Council for Nursing Research, National Institute of Nursing Research, National Institutes of Health and Its Subcommittee on February 6–7, 1996.

The meetings will be open to the public as indicated below. Attendance will be limited to space available.

The meetings will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meetings, roster of committee members, and other information may be obtained from the Executive Secretary listed below. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Name of Committee: Planning Subcommittee.

Date of Meeting: February 6, 1996.
Place: National Institutes of Health, Building 31, Conference Room 5B03, Bethesda, MD.
Open: 8:30 a.m. to 11:30 a.m.
Agenda: Discussion of long-term and strategic planning and policy issues.

Name of Committee: National Advisory Council for Nursing Research.
Date of Meeting: February 6–7, 1996.
Place: National Institutes of Health, Building 31, Conference Room 6, Bethesda, MD.
Open: February 6, 1:00 p.m. to 5:30 p.m.
Agenda: NINR Director's Report Discussion: Minority Health Research Scientific Report, NIH Office of Research on Minority Health, Clinical Research Supported by the NIH, Report on the Advisory Committee to the Director, Report of the Planning Subcommittee, Statement of Understanding.
Closed: February 7, 8:30 a.m. to adjournment.
Executive Secretary: Dr. Ernest Marquez, NINR, NIH, Building 45, Room 3AN–12, Bethesda, MD 20892.

This notice is being published less than 15 days prior to the above meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93.361, Nursing Research, National Institutes of Health.)

Dated: January 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.
Certified to be a true copy.

[FR Doc. 96–2023 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Notice of Meeting of the Board of Scientific Counselors, National Institute on Deafness and Other Communications Disorders

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Board of Scientific Counselors, National Institution Deafness and Other Communication Disorders, on March 28–29, 1996. The meeting will be held in Conference Room D, the Natcher Conference Center, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public from 1 p.m. to 3 p.m. March 28 to present reports and discuss issues related to business of the Board. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, United States Code, and section 10(d) of Public Law 92–463, the meeting of the Board of Scientific Counselors will be closed to the public from 3 p.m. on March 28 until adjournment at approximately 3 p.m. on March 29. The closed portion of the meeting will be for the review, discussion and evaluation of the program of a tenure track scientist and the Section on Neurotransmitter Receptor Biology of the division of Intramural Research, National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and a roster of committee members may be obtained from James F. Battey, M.D., Ph.D., Executive Secretary of the Board of Scientific Counselors, National Institute on Deafness and Other Communication Disorders, 5 Research Court, Room 2B–28, Rockville, Maryland 0850, (301) 402–2829.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Battey at least two weeks prior to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93,173 Biological Research Related to Deafness and Communication Disorders)

Dated: January 26, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2027 Filed 1–3–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute on Drug Abuse Initial Review Group.

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: Epidemiology and Prevention Research Subcommittee.

Date: February 12–13, 1996.

Time: 8:30 a.m.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Raquel Crider, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 9042.

Name of Committee: Molecular, Cellular and Chemical Neurobiology Research Subcommittee.

Date: February 13–15, 1996.

Time: 8:30 a.m.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Rita Liu, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: Neuropharmacology Research Subcommittee.

Date: February 13–15, 1996.

Time: 8:30 a.m.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Syed Husain, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

Name of Committee: Neurophysiology and Neuroanatomy Research Subcommittee.

Date: February 13–15, 1996.

Time: 8:30 a.m.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Gamil Debbas, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

This notice is being published less than 15 days prior to the above meetings due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of Committee: Basic Behavioral Science Research Subcommittee.

Date: Feburary 20–22, 1996.

Time: 8:30 a.m.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: William C. Grace, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

The meetings will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the application, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs.)

Dated: January 25, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–2021 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) (NIH) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 60 FR 58369, November 27, 1995), is amended to reflect the reorganization of the Office of the Director, NIH (OD/NIH) (HNA). The reorganization consists of the following: (1) Establish the Office of Management (OM) (HNAM); (2) establish the Office of the Director within OM (HNAMI); (3) transfer the Office of Administration, OD/NIH (HNAB) to OM and change the Standard Administrative Code (SAC) to HNAM2; (4) transfer the Office of Financial Management, OD/NIH (HNAJ) to OM and change the SAC to HNAM3; (5) transfer the Office of Human Resource Management, OD/NIH (HNAK) to OM and change the Standard Administrative Code (SAC) to HNAM4; and (6) transfer the Office of Research Services, OD/NIH (HNAL) to OM and change the Standard Administrative Code (SAC) to HNAM5.

Section HN–B, Organization and Functions, is amended as follows:

(1) Under the heading *Office of the Director (HNA),* insert the following:

Office of Management (HNAM). (1) Advises the NIH Director and staff on all phases of NIH-wide administration and management; (2) provides leadership and director to all aspects of management; and (3) oversees the management of functions in the areas of budget and financial management, personnel management, information resources management, management policy, management assessment, program integrity, contract, procurement, and logistics management, engineering services, safety, space and facility management, support services, and security operations.

(2) Under the heading *Office of the Director (HNA), Office of Management (HNAM),* insert the following:

Office of the Director (HNAMI). Provides leadership, direction, and coordination on all phases of NIH-wide administration and management.

Dated: January 20, 1996.

Harold Varmus,

Director, NIH.

[FR Doc. 96–2052 Filed 1–31–96; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS (Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh, Division of Workplace Programs, Room 13A–54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443–6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are *not* to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the guidelines:

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Rd., Suite 21, Nashville, TN 37211, 615–331–5300

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/205–263–5745

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 22021, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave. Suite 250, Las Vegas, NV 89119–5412, 702–733–7866

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787

Baptist Medical Center-Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–227–2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Bayshore Clinical Laboratory, 4555 W. Schroeder Dr., Brown Deer, WI 53223, 414–355–4444/800–877–7016

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5810

Centinela Hospital Airport Toxicology Laboratory, 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310–215–6020

Clinical Reference Lab, 11850 West 85th St., Lenexa, KS 66214, 800–445–6917

CompuChem Laboratories, Inc., 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263/800–833–3984, (Formerly: CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

CORNING Clinical Laboratories, 8300 Esters Blvd., Suite 900, Irving, TX 75063, 800–526–0947 (formerly: Damon Clinical Laboratories, Damon/MetPath)

CORNING Clinical Laboratories, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 800–284–7515 (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories)

CORNING Clinical Laboratories, 24451 Telegraph Rd., Southfield, MI 48034, 800–444–0106 ext. 650 (formerly: Health Care/Preferred Laboratories, HealthCare/MetPath)

CORNING Clinical Laboratories Inc., 1355 Mittel Blvd., Wood Dale, IL 60191, 708–595–3888 (formerly: MetPath, Inc. CORNING MetPath Clinical Laboratories)

CORNING Clinical Laboratories, South Central Division, 2320 Schuetz Rd., St. Louis, MO 63146, 800–288–7293 (formerly: Metropolitan Reference Laboratories, Inc.)

CORNING Clinical Laboratory, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5000 (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories)

CORNING National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485 (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science)

CORNING Nichols Institute, 7470–A Mission Valley Rd., San Diego, CA 92108–4406, 800–446–4728/619–686–3200 (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT))

Cox Medical Centers, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–836–3093

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38–H, Great Lakes, IL 60088–5223, 708–688–2045/708–688–4171

Diagnostic Services Inc., dba DSI, 4048 Evans Ave., Suite 301, Fort Myers, FL 33901, 813–936–5446/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

Drug Labs of Texas, 15201 I–10 East, Suite 125, Channelview, TX 77530, 713–457–3784

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800–898–0180/206–386–2672 (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Harrison Laboratories, Inc., 9930 W. Highway 80, Midland, TX 79706, 800–725–3784/915–563–3300 (formerly: Harrison & Associates Forensic Laboratories)

Holmes Regional Medical Center Toxicology Laboratory, 5200 Babcock St., N.E., Suite 107, Palm Bay, FL 32905, 407–726–9920

Jewish Hospital of Cincinnati, Inc., 3200 Burnet Ave., Cincinnati, OH 45229, 513–569–2051

LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913–888–3927 (formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America, 13900 Park Center Rd., Herndon, VA 22071, 703–742–3100 (formerly: National Health Laboratories Incorporated)

Laboratory Corporation of America, 21903 68th Ave. South, Kent, WA 98032, 206–395–4000 (formerly: Regional Toxicology Services)

Laboratory Corporation of America Holdings, 1120 Stateline Rd., Southaven, MS 38671, 601–342–1286 (formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800–437–4986 (formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Specialists, Inc., 113 Jarrell Dr., Belle Chasse, LA 70037, 504–392–7961

Marshfield Laboratories, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–222–5835

MedExpress/National Laboratory Center, 4022 Willow Lake Blvd., Memphis, TN 38175, 901–795–1515

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699–0008, 419–381–5213
Medlab Clinical Testing, Inc., 212 Cherry Lane, New Castle, DE 19720, 302–655–5227
MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800–832–3244/612–636–7466
Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587
Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Ave., Peoria, IL 61636, 800–752–1835/309–671–5199
MetroLab-Legacy Laboratory Services, 235 N. Graham St., Portland, OR 97227, 503–413–4512, 800–237–7808 (x4512)
National Psychopharmacology Laboratory, Inc., 9320 Park W. Blvd., Knoxville, TN 37923, 800–251–9492
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250
Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 503–687–2134
Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400
PDLA, Inc. (Princeton), 100 Corporate Court, So. Plainfield, NJ 07080, 908–769–8500/800–237–7352
PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 415–328–6200/800–446–5177
Pharm Chem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–595–0294 (formerly: Harris Medical Laboratory)
Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–338–4070/800–821–3627 (formerly: Physicians Reference Laboratory Toxicology Laboratory)
Poisonlab, Inc., 7272 Clairemont Mesa Rd., San Diego, CA 92111, 619–279–2600/800–882–7272
Presbyterian Laboratory Services, 1851 East Third Street, Charlotte, NC 28204, 800–473–6640
Puckett Laboratory, 4200 Mamie St., Hattiesburgh, MS 39402, 601–264–3856/800–844–8378
Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond VA 23236, 804–378–9130
Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 800–749–3788
S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505–244–8800, 800–999–LABS
Sierra Nevada Laboratories, Inc., 888 Willow St., Reno, NV 89502, 800–648–5472
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91045, 818–989–2520
SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 904–787–9006 (formerly: Doctors & Physicians Laboratory)
SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Altanta, GA 30340, 770–452–1590 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 708–885–2010 (formerly: International Toxicology Laboratories)
SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800–523–5447 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 1737 Airport Way South, Suite 200, Seattle, WA 98134, 206–623–8100
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Suite 6, Tempe, AZ 85283, 602–438–8507
St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee St., Oklahoma City, OK 73102, 405–272–7052
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 314–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
TOXWORX Laboratories, Inc., 6160 Variel Ave., Woodland Hills, CA 91367, 818–226–4373 (formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.)
UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 800–492–0800/818–343–8191 (formerly: MedWest-BPL Toxicology Laboratory)

The following laboratory withdrew from the Program on December 1, 1995: CompuChem Laboratories, Inc., Special Division, 3308 Chapel Hill/Nelson Hwy., Research Triangle Park, NC 27709, 919–549–8263 (Formerly: Roche CompuChem Laboratories, Inc., Special Division, A Member of the Roche Group, CompuChem Laboratories, Inc., Special Division).

CompuChem Laboratories, Inc., Special Division tested specimens only for the Federal Railroad Administration. This withdrawal affects only CompuChem Laboratories, Inc., Special Division. CompuChem Laboratories, Inc., at the same address, maintains its ongoing certification.

No laboratories withdrew from the Program during January 1996. In addition, no laboratory list was published in January 1996 in the Federal Register.

Richard Kopanda,

Acting Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 96–2007 Filed 1–31–96; 8:45 am]

BILLING CODE 4160–20–M

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a teleconference meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council to be held in March 1996.

The Council will discuss the Center's policy issues and current administrative, legislative, and program developments.

A summary of the meeting and a roster of Council members may be obtained from: Ms. Deloris Winstead, Committee Management Specialist, CSAT National Advisory Council, Rockwall II Building, Room 8A141, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443–8923.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Center for Substance Abuse Treatment National Advisory Council.

Meeting Date: March 4, 1996.

Place: Center for Substance Abuse Treatment, Rockwall II Building, 6th Floor Conference Room, 5515 Security Lane, Rockville, Maryland 20852.

Open: March 4, 1996, 1:15 p.m. to 2:45 p.m.

Contact: Marjorie Cashion, Rockwall II Building, Room 8A139, Telephone: (301) 443–8923 and FAX: (301) 480–3144.

Dated: January 26, 1996.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Service Administration.

[FR Doc. 96–1976 Filed 1–31–96; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Administration

[Docket No. FR–3917–N–38]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: April 1, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Gloria S. Diggs, Reports Liaison Officer, Office of Administration, Department of Housing & Urban Development, 451—7th Street, SW., Room 4176, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Gloria S. Diggs, 202–708–0050 (this is not a total-free number) for copies of the proposed forms and other available documents:

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Grant and Cooperative Agreement Request for Application and General Reporting Requirements of Grant and Cooperative Agreement Recipients.

OMB Control Number, if applicable: 2535–0084.

Description of the need for the information and proposed use: Potential Recipients respond to a Request for Application (RFA) in order to receive an award. After the award is granted, periodic reports are necessary to ensure that technical progress is satisfactory.

Agency form numbers, if applicable: SF–269, SF–270, SF–424, SF–1199A.

Members of affected public: Business or Other For-Profit, Individuals or Households, Not-For-Profit Institutions, and State, Local, or Tribal Government.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 500 respondents ×4 times per year × 40 hours per respondent =80,000 burden hours.

Status of the proposed information collection: Extension, no change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 23, 1996.

David S. Cristy,

Director, Information Resource Management Policy and Management Division.

[FR Doc. 96–2031 Filed 1–31–96; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–3917–N–37]

Government National Mortgage Association Notice of Proposed Information Collection for Public Comment

AGENCY: Government National Mortgage Association, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: March 25, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sonya K. Suarez, Government National Mortgage Association, Office of Program, Policy, Procedure, and Risk Management, Department of Housing and Urban Development, 451—7th Street, SW., Room 6222, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sonya K. Suarez, on (202) 708–2884 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: (1) Request for release of Documents; (2) ACH Debit Authorization; (3) Letter Agreement for Servicer's Principal and Interest Custodial Account; (4) Letter Agreement for Servicer's Escrow Account; and (5) Custodial Agreement.

OMB Control Number: 2503–0017.

Description of the need for the information and proposed use: The forms provide the release of mortgage documents held by the pool custodian allowing Ginnie Mae to have some control of these documents, and provide evidence that the issuers have established custodial accounts to maintain the funds to be paid to Ginnie Mae securities holders. Ginnie Mae establishes, through the use of these forms, that only the issuer and Ginnie Mae have access to the funds for the benefit of the Ginnie Mae securities holders of mortgage-backed securities.

Agency form numbers: HUD 11708, 11709, 11709–A, 11715, and 11720

Members of affected public: Business or other for-profit and the Federal Government

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

HUD 11708

Number of respondents—900
Frequency of response—200
Total annual responses—180,000
Hours per response—.0017 (1 min.)
Total Hours—3,060

HUD 11709–A

Number of respondents—50
Frequency of response—1
Total annual responses—50

Hours per response—.017
Total Hours—1 hr.

HUD 11709, 11715, and 11720

Number of respondents—900 per each form
Frequency of response—34 per each form
Total annual responses—520 per each form
Hours per response—.017 per each form
Total Hours—520 per each form

Status of the proposed information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: January 25, 1996.

George S. Anderson,

Acting Executive Vice President, Government National Mortgage Association.

[FR Doc. 96–2032 Filed 1–31–96; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–01–4410–04–ADVB]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet in formal session Thursday, February 29, 1996, from 8:00 a.m. to 5:00 p.m., and Friday, March 1, 1996, from 8:00 a.m. to 5:00 p.m. The sessions will be held in the Hoover Room, which is in the Education Center at the Living Desert Museum, located at 47900 Portola Avenue, Palm Desert, California.

Council members will participate in a field tour on Thursday morning, which will focus on various area management programs. The tour will assemble at the Embassy Suites parking lot located at 74–700 Highway 111, Palm Desert, California at 7:15 a.m., and depart at 7:30 a.m. The public is welcome to participate in the field tour, but should dress appropriately and plan on providing their own transportation, food, and beverage. Anyone interested in participating in the field tour should contact BLM at (909) 697–5215 for more information.

The council meeting is scheduled to begin at 1:00 p.m. in the conference room at the Living Desert Museum. All Desert District advisory Council meetings are open to the public. Time for public comment may be made available by the Council Chairman during the presentation of various agenda items, and is scheduled at the end of the meeting for topics not on the agenda.

Written comments may be filed in advance of the meeting for the California Desert District Advisory Council, c/o Bureau of Land Management, Public Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507–0714. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District, Public Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507–0714; (909) 697–5215.

Dated: January 26, 1996.

Henri R. Bisson,

District Manager.

[FR Doc. 96–2070 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–40–M

[ID–060–1610–00]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Upper Columbia-Salmon Clearwater Districts, Idaho.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, the Bureau of Land Management (BLM) announces the meeting of the Upper Columbia-Salmon Clearwater Districts Resource Advisory Council (RAC) on Tuesday, February 20 and Wednesday, February 21, 1996 in Coeur d'Alene, Idaho. The meeting will be held at the BLM office at 1808 North Third Street in Coeur d'Alene.

The purpose of the meeting is for the RAC members to discuss, modify or develop proposed rangeland standards and guidelines. Other administrative issues may be discussed as time permits. The RAC will meet from 8:00 a.m. to 4:30 p.m. each day. The public may address the Council during the public comment period on February 20, 1996 starting at 1:30 p.m.

SUPPLEMENTARY INFORMATION: All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

The Council's responsibilities include providing long-range planning and establishing resource management priorities; and assisting the BLM to identify state standards for rangeland health and guidelines for grazing.

FOR FURTHER INFORMATION CONTACT: Ted Graf (208) 769–5004.

Dated: January 24, 1996.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 96–2129 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–GG–M

[MT–960–1990–00]

Resource Advisory Council Meeting, Butte, Montana

AGENCY: Butte District Office, Bureau of Land Management.

ACTION: Notice of Butte District Resource Advisory Council Meeting, Butte, Montana.

SUMMARY: The Council will convene at 10:00 a.m. on February 29, 1996, to work on the Grazing Standards and Guidelines and any new business the Council may want to discuss. The meeting will be held in the Bureau of Land Management Butte District Office conference room, and is of an urgent nature to meet the time frames established to complete the Standards and Guidelines.

The meeting is open to the public and written comments may be given to the Council. Oral comments may be presented to the Council at 3 p.m. The time allotted for oral comment may be limited, depending on the number of persons wishing to be heard. Individuals who plan to attend and need further information about the meeting; or need special assistance, such as sign language or other reasonable accommodations, should contact the Butte District, 106 North Parkmont (PO Box 3388), Butte, Montana 59702–3388; telephone 406–494–5059.

FOR FURTHER INFORMATION CONTACT:

Orval Hadley at the above address or telephone number.

Orval L. Hadley,

District Manager.

[FR Doc. 96–2128 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–DN–M

[CO–930–1020–04–WEED]

Notice of proposed supplementary rules to require the use of certified noxious weed-free forage on Bureau of Land Management-administered lands in Colorado

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The State Director of the Bureau of Land Management (BLM) in Colorado is proposing a requirement that all BLM visitors and permittees in Colorado use certified noxious weed-free hay, straw, or mulch when visiting BLM administered lands in Colorado. This requirement will affect visitors who use hay or straw on the BLM administered lands in Colorado such as: recreationists using pack and saddle stock, ranchers with grazing permits, outfitters, and contractors who use straw or other mulch for reseeding purposes. These individuals or groups would be required to purchase certified noxious weed-free forage products, or use other approved products such as processed grains and pellets while on BLM administered lands in Colorado.

DATES: Comments concerning the proposal should be received on or before March 4, 1996.

ADDRESSES: Send written comments concerning the Colorado requirement to: State Director (930), USDI, Bureau of Land Management, 2850 Youngfield Street, Lakewood, CO 80215.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Colorado State Office, Carol Spurrier, Resource Services, Plant and Animal Sciences Team, 2850 Youngfield Street, Lakewood, CO 80215, or telephone (303) 239–3725.

SUPPLEMENTARY INFORMATION: Noxious weeds are a serious problem in the western United States. Estimates of the rapid spread of weeds in the west include 2,300 acres per day on BLM administered lands and 4,600 acres per day on all western public lands. Species like Leafy Spurge, Spotted Knapweed, Russian Knapweed, Musk Thistle, Dalmatian Toadflax, Purple Loosestrife, and many others are alien to the United States and have no natural enemies to keep their populations in balance. Consequently, these undesirable weeds invade healthy ecosystems, displace native vegetation, reduce species diversity, and destroy wildlife habitat. Widespread infestations lead to soil erosion and stream sedimentation. Furthermore, noxious weed invasions weaken reforestation efforts, reduce domestic and wild ungulates' grazing capacity, occasionally irritate public land users by aggravating allergies and other ailments, and threaten federally protected plants and animals.

To curb the spread of noxious weeds, a growing number of Western States have jointly developed noxious weed-free forage certification standards, and, in cooperation with various federal, state, and county agencies, passed weed management laws. Because hay and other forage products containing noxious weed seed are part of the infestation problem, Colorado has developed a state hay inspection-certification-identification process, participates in a regional inspection-certification-identification process, and encourages forage producers in Colorado to grow noxious weed-free products. The Colorado Department of Agriculture Division of Plant Industry has documented that in the first two years of the program, 101 growers in Colorado produced 5,547.49 acres of certified forage including grass hay, alfalfa hay, a mixture of grass and alfalfa hay, as well as barley and wheat straw as of October 30, 1995.

Region Two of the United States Forest Service, Department of Agriculture, implemented a similar policy for National Forest lands in Colorado and surrounding states in 1994. The BLM in Colorado implemented a standard stipulation on all Special Recreation Permits in 1994 requiring holders of those permits to use certified weed-free products. This proposal will provide a standard regulation for all users of BLM lands in Colorado and will provide for coordinated management with National Forest lands across jurisdictional lines.

In cooperation with the state of Colorado and the U.S. Forest Service, the BLM is proposing—for all BLM administered lands within Colorado—a ban on hay, straw or mulch that has not been certified. This proposal includes a public information plan to ensure that: (1) this ban is well publicized and understood; and (2) BLM visitors and land users will know where they can purchase state-certified hay or other products.

These supplementary rules will not appear in the Code of Federal Regulations.

The principal author of these proposed supplementary rules is Carol Spurrier, Botanist, of the Colorado State Office, BLM.

For the reasons stated above, under the authority of 43 CFR 8365.1–6, the Colorado State Office, BLM, proposes supplementary rules to read as follow:

Supplementary Rules to Require the Use of Certified Noxious Weed-Free Forage on Bureau of Land Management-Administered Lands in Colorado

(a)(1) To prevent the spread of weeds on BLM-administered lands in Colorado, effective August 1, 1996, all BLM lands within the state of Colorado, at all times of the year, shall be closed to possessing or storing hay, straw, or mulch that has not been certified as free of prohibited noxious weed seed.

(2) Certification will comply with ''Regional Standards'' jointly developed by the states of Colorado, Idaho, Montana, Utah, Wyoming, and Nebraska for noxious weed seed free and noxious weed free forage.

(3) The following persons are exempt from this order: anyone with a permit signed by BLM's authorized officer at the Resource Area Office specifically authorizing the prohibited act or omission within that Resource Area.

(b) Any person who knowingly and willfully violates the provisions of these supplemental rules regarding the use of noncertified noxious weed-free hay, straw, or mulch when visiting Bureau of Land Management administered lands in Colorado, without authorization required, may be commanded to appear before a designated United States Magistrate and may be subject to a fine of not more than $1,000 or imprisonment of not more than 12 months, or both, as defined in 43 United States Code § 1733(a).

Donald R. Glaser,

State Director, Bureau of Land Management, Colorado.

[FR Doc. 96–2133 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–JB–P

[NM–932–1310–01; TXNM 26411]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Public Law 97–451, a petition for reinstatement of Oil and Gas Lease TXNM 26411, Shelby County, Texas, was timely filed and was accompanied by all required rentals and royalties accruing from October 1, 1995, the date of the termination. No valid lease has been issued affecting the land. The lessee(s) have agreed to new lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, and 16⅔ percent, respectively. Payment of a $500.00 administrative fees has been made. Having met all the requirements for reinstatement of the lease as set in

Section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective October 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this Notice.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: January 25, 1996.

Lourdes B. Ortiz,

Land Law Examiner, Fluids Adjudication Team.

[FR Doc. 96–2130 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–FB–M

[NM–932–1310–01; TXNM 26414]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Public Law 97–451, a petition for reinstatement of Oil and Gas Lease TXNM 26414, Shelby County, Texas, was timely filed and was accompanied by all required rentals and royalties accruing from October 1, 1995, the date of the termination. No valid lease has been issued affecting the land. The lessee(s) have agreed to new lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, and 16⅔ percent, respectively. Payment of a $500.00 administrative fee has been made. Having met all the requirements for reinstatement of the lease as set in Section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective October 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this Notice.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: January 5, 1996.

Lourdes B. Ortiz,

Land Law Examiner, Fluids Adjudication Team.

[FR Doc. 96–2132 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–FB–M

[NM–932–1310–01; TXNM 26413]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Public Law 97–451, a petition for reinstatement of Oil and Gas Lease TXNM 26413, Shelby County, Texas, was timely filed and was accompanied by all required rentals and royalties accruing from October 1, 1995, the date of the termination. No valid lease has been issued affecting the land. The lessee(s) have agreed to new lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, and 16⅔ percent, respectively. Payment of a $500.00 administrative fee has been made. Having met all the requirement for reinstatement of the lease as set in Section 31 (d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188 (d) and (e)), the Bureau of Land Management is proposing to reinstate the lease effective October 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above, and the reimbursement for cost of publication of this Notice.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: January 25, 1996.

Lourdes B. Ortiz,

Land Law Examiner, Fluids Adjudication Team.

[FR Doc. 96–2131 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–FB–M

[AZ–930–06–1020–00]

Intent To Prepare an Arizona Statewide Plan Amendment, To Develop State Standards for Rangeland Health and Guidelines for Grazing Management

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent and Notice of Scoping Period.

SUMMARY: Pursuant to Section 202(a) of the Federal Land Policy and Management Act of 1976 and Section 102(2) of the National Environmental Policy Act of 1969 (NEPA), the Arizona Bureau of Land Management will be preparing a Statewide plan amendment to develop State Standards for Rangeland Health and Guidelines for Grazing Management as provided in the BLM's new grazing regulations (43 CFR Part 4100). All existing land use plans (LUP) in the State of Arizona, whether resource management plan (RMP) or management framework plan (MFP), will be amended. The appropriate level of NEPA analysis used, either an environmental assessment (EA) level or environmental impact statement (EIS) level, will be determined based on comments received during the scoping period. This notice invites public input on the development of Standards for Rangeland Health and Guidelines for Grazing Management for Arizona, on issues to be addressed, alternatives to be considered, and the appropriate level of NEPA analysis needed.

DATES: Comments will be accepted throughout the Statewide plan amendment and NEPA analysis process. However, comments received after March 4, 1996, may not be reflected in the alternatives considered or issues analyzed in the plan amendment and associated NEPA document released for public review and comment (anticipated release is mid-May 1996).

ADDRESSES: Any comments or requests to be placed on the mailing list should be sent to: Standards and Guidelines (AZ–930); Bureau of Land Management, P.O. Box 16563, Phoenix, AZ, 85011–6563.

FOR FURTHER INFORMATION CONTACT: Clint Oke or Ken Mahoney; Co-Team Leaders; Bureau of Land Management (AZ–930); P.O. Box 16563; Phoenix, AZ, 85011–6563; phone (602) 650–0513.

SUPPLEMENTARY INFORMATION: The BLM's new grazing administration regulations (43 CFR Part 4100), which became effective August 21, 1995, provide for the development of State Standards for Rangeland Health and Guidelines for Grazing Management. These Standards and Guidelines are to be approved and implemented through an integrated planning and NEPA process using an interdisciplinary team of specialists pursuant to BLM's Planning Regulations (43 CFR part 1600). All existing LUPs for public lands in the State of Arizona will be amended. At this point in time, it is undecided what level of NEPA analysis (EA-level or EIS-level) will be needed.

Description of Possible Alternatives

At this time three preliminary reasonable alternatives have been identified: the continuation of current management as provided for in existing land use plans (no action alternative), the adoption of the fallback Standards and Guidelines contained in the Grazing Regulations (43 CFR Part 4100), and the adoption of Standards and Guidelines developed locally and in consultation

with Arizona's Resource Advisory Council. (All Arizona Resource Advisory Council meetings are open to the public and are published in the Federal Register.)

Anticipated Issues

Anticipated issues to be addressed during the plan amendment and NEPA analysis process include, but may not be limited to, the following: the effect that adoption of Standards would have on resource conditions, uses, and users of public land; and, the effect that adoption of Guidelines would have on livestock grazing operations. Consultation under Section 7 of the Threatened and Endangered Species Act will occur as appropriate.

Bruce Conrad,

Associate State Director.

[FR Doc. 96–1964 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–32–P

[WY–989–1050–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 18 N., R. 91 W., accepted January 19, 1996
T. 25 N., R. 102 W., accepted January 19, 1996
T. 26 N., R. 102 W., accepted January 19, 1996
T. 25 N., R. 103 W., accepted January 19, 1996

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s). These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, subdivision of sections.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: January 24, 1996.

John P. Lee,

Chief, Cadastral Survey Group.

[FR Doc. 96–2134 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–22–M

Fish and Wildlife Service

Silvio Conte National Fish and Wildlife Refuge Advisory Committee Meeting

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, this notice announce a meeting of the Silvio Conte National Fish and Wildlife Refuge Advisory Committee established under the authority of the Silvio O. Conte National Fish and Wildlife Refuge Act.

DATES: The Silvio Conte National Fish and Wildlife Refuge Advisory Committee will meet from 10:00 a.m. to 2:00 p.m., Wednesday, March 13, 1996.

ADDRESSES: The meeting will be held at the Connecticut Department of Environmental Protection, 79 Elm Street, Hartford, Connecticut in the Phoenix Room.

Summary minutes of meeting will be maintained in the office of the Coordinator for the Silvio Conte National Fish and Wildlife Refuge Advisory Committee at 38 Avenue A, Turners Falls, MA 01376.

FOR FURTHER INFORMATION CONTACT: Committee Coordinator Lawrence Bandolin at 413–863–0209, FAX 413–863–3070.

SUPPLEMENTARY INFORMATION: Committee members will be updated on the status of the Conte Refuge funding, comment on the final Environmental education outreach plan, be updated on on-going developments for educational partnerships, and discuss the Challenge Cost Share program review process.

The meetings are open to the public. Interested persons may make oral statements to the Committee or may file written statements for consideration. Summary minutes of meeting will be available for public inspection during regular business hours (8:30–4:00) Monday through Friday within 30 days following the meeting at the committee coordinator's office listed above. Personal copies may be purchased for the cost of duplication.

Dated: January 24, 1996.

Ronald Lambertson,

Regional Director, Region 5, Hadley, Massachusetts.

[FR Doc. 96–2125 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research and Development Agreement (CRADA) negotiations.

SUMMARY: The United States Geological Survey (USGS) is planning to enter into a Cooperative Research and Development Agreement (CRADA) with 3M Corporation. The purpose of the CRADA is to conduct research and development in print-on-demand technology to support graphic production of USGS mapping products. Any other organization interested in pursuing the possibility of a CRADA for similar kinds of activities should contact the USGS.

ADDRESSES: Inquiries may be addressed to the Senior Program Advisor for Research and Applications, U.S. Geological Survey, 519 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092; Telephone (703) 648–4637, facsimile (703 648–5542; Internet ''dnystrom@usgs.gov''.

FOR FURTHER INFORMATION CONTACT: David A. Nystrom, address above.

SUPPLEMENTARY INFORMATION: This notice is to meet the USGS requirement stipulated in the Survey Manual.

Dated: January 24, 1996.

Richard E. Witmer,

Acting Chief, National Mapping Division.

[FR Doc. 96–2126 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–31–M

Office of the Assistant Secretary for Water and Science; Central Utah Project Completion Act

Notice of Intent to Negotiate a Contract Among the Central Utah Water Conservancy District, Strawberry Water Users Association, and Department of the Interior for Irrigation Water From the Bonneville Unit of the Central Utah Project, Utah

AGENCY: Office of the Assistant Secretary for Water and Science, Department of the Interior.

ACTION: Notice of intent to negotiate a contract among the Central Utah Water Conservancy District (CUWCD), Strawberry Water Users Association (SWUA), and Department of the Interior (DOI) for Irrigation Water from the Bonneville Unit of the Central Utah Project.

SUMMARY: Public Law 102–575, Section 202(a)(1)(C) stipulates that: ''Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.'' Subparagraph A relates to construction of the Spanish Fork Canyon/Nephi Irrigation System of the Bonneville Unit, Central Utah Project. A negotiated contract among CUWCD, SWUA, and DOI will meet the requirements of Section 202(a)(1)(C).

DATES: Dates for public negotiation sessions will be announced in local newspapers.

FOR FURTHER INFORMATION: Additional information on matters related to this Federal Register notice can be obtained at the address and telephone number set forth below: Mr. Reed Murray, Program Coordinator, CUP Completion Act Office, Department of the Interior, 302 East 1860 South, Provo UT, 84606–6154. Telephone: (801) 379–1237.

Dated: January 26, 1996.

Ronald Johnston,

CUP Program Director, Department of the Interior.

[FR Doc. 96–2069 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–RK–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Paperwork Reduction Project (1029–0036), Washington, DC 20503, telephone 202–395–7340.

Title: Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan—30 CFR 780.

OMB Number: 1029–0036.

Abstract: Permit application requirements in sections 507(b), 508(a), 510(b), 515(b) and (d), and 522 of Public Law 95–87 require the applicant to submit the operations and reclamation plan for coal mining activities. Information collection is needed to determine whether the mining and reclamation plan will achieve the reclamation and environmental protections pursuant to SMCRA.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Surface Coal Mining Operators.

Annual Responses: 610.

Annual Burden Hours: 235,261.

Average Burden Hours Per Response: 386.

Bureau Clearance Officer: John A. Trelease (202) 208–2617.

Dated: December 4, 1995.

Gene E. Krueger,

Acting Chief, Division of Technology Development and Transfer.

[FR Doc. 96–1988 Filed 1–31–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act and Oil Pollution Act

In accordance with Departmental policy, notice is hereby given that on January 24, 1996 a proposed Consent Decree in *United States of America and State of Indiana* v. *Marathon Oil Company,* Case No. IP 96–110–C–M/S, was lodged with the United States District Court for the Southern District of Indiana. This consent decree represents a settlement of claims against Marathon Oil Company for violations of the Clean Water Act and Oil Pollution Act.

Under this settlement between the United States and the State of Indiana and Marathon Oil Company [Marathon], Marathon will pay the United States and the State of Indiana $304,630 for natural resources damages, including the costs incurred by the governments to assess the damages. The monies recovered by the governments shall be expended, among other purposes, to restore, replace or acquire equivalent natural resources injured by two oil spills at the Marathon oil refinery located in Indianapolis, Indiana. In addition, the Consent Decree requires Marathon to pay $50,025 as a civil penalty for eight violations of its NPDES permit.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States and State of Indiana* v. *Marathon Oil Company,* D.J. Ref. 90–5–1–1–4150.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Southern District of Indiana, U.S. Courthouse, Fifth Floor, 46 East Ohio Street, Indianapolis, Indiana 46204, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $3.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–2135 Filed 1–31–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act

In accordance with 42 U.S.C. 9622(d), 42 U.S.C. 6973(d), and 28 CFR 50.7, notice is hereby given that on January 24, 1996, a proposed consent decree in *United States of America v. City of Somersworth, N.H., et al.,* Civil Action No. 96–046–JD, was lodged with the United States District Court for the District of New Hampshire. The United States' complaint sought injunctive relief and recovery of response costs under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), and the Resource Conservation and Recovery Act (''RCRA''), in regard to the Somersworth Sanitary Landfill Superfund Site (''Somersworth Landfill Site'') in Somersworth, New Hampshire, against the City of Somersworth, N.H. (''City''), General Electric Company (''GE''), Browning-Ferris Industries of New Hampshire, Inc., Cate's Rubbish Removal Services, Inc., Waste Management of Maine, Inc./Waste Management of New Hampshire, Inc./ Waste Management of North America, Inc., D.F. Richard, Inc., Exeter & Hampton Electric Company, Fortier & Son, Inc., General Linen Service Co., Inc., J.A. Prince & Sons, Inc., Mid-way Buick, Pontiac GMC Truck, Inc., New England Telephone & Telegraph Company, New Hampshire Printers & Business Forms, Inc., Public Service Company of New Hampshire, R.M. Rouleau, Inc., Riverside Garage & Leasing, Inc., Robbins Auto Parts, Inc., Somersworth Nissan, Inc., Tri-City Dodge, Inc./Tri-City Subaru, Inc., and Gagnon's Auto Body, Inc. The State of New Hampshire is also a plaintiff in the action.

The Consent Decree provides that the City and GE will implement the remedial design and remedial action selected by EPA in the Record of Decision dated June 21, 1994, for the Somersworth Landfill Site. The Consent Decree also provides that the defendants will pay $283,181 to the Superfund for past response costs incurred by the U.S. Environmental Protection Agency, $3,000 to the U.S. Department of the Interior for natural resource damage assessment costs, and $10,669 to the State of New Hampshire for past response costs incurred by the State of New Hampshire. The Consent Decree includes a covenant not to sue by the United States under Sections 106 and 107 of the CERCLA, 42 U.S.C. 9606 and 9607, and under Section 7003 of RCRA, 42 U.S.C. 6973.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States versus City of Somersworth, N.H., et al.,* D.J. Ref. 90–11–3–1311A. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. § 6973(d).

The proposed Consent Decree may be examined at the office of the United States Attorney, 55 Pleasant St., Rm. 312, Concord, New Hampshire 03301 and at the New England Region office of the Environmental Protection Agency, One Congress St., Boston, Massachusetts 02203. The proposed Consent Decree may also be examined at the Consent Decree Library, 1120 G. St., N.W., 4th Floor, Washington, D.C. 20005, 202–624–0892. A copy of the proposed Consent Decree (without appendices) may be obtained in person or by mail from the Consent Decree Library, 1120 G. St., N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $40.75 (25 cents per page reproduction cost) payable to the ''Consent Decree Library.''

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 96–2136 Filed 1–31–96; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

[Civil Action No. 395CV01946RNC]

United States v. HealthCare Partners, Inc., et al.; Public Comments and United States' Response to Public Comments

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States publishes below the comments received on the proposed Final Judgment in *United States* versus *HealthCare Partners, Inc., et al.,* Civil Action No. 395CV01946RNC, United States District Court for the District of Connecticut, together with the response of the United States to the comments.

Copies of the response and the public comments are available on request for inspection and copying in Room 215 of the Antitrust Division, U.S. Department of Justice, 325 7th Street, N.W., Washington, D.C. 20004, and for inspection at the Office of the Clerk of the United States District Court for the District of Connecticut, 450 Main Street, Hartford, Connecticut 06103.

Rebecca P. Dick,

Deputy Director of Operations, Antitrust Division.

United States of America, and State of Connecticut, ex rel., Richard Blumenthal, Attorney General, Plaintiffs, vs. *HealthCare Partners, Inc., Danbury Area IPA, Inc., and Danbury Health Systems, Inc.,* Defendants. [Civil Action No. 395CV01946RNC]

January 18, 1996.

United States' Response to Public Comments

Pursuant to the requirements of the Antitrust Procedures and Penalties Act (commonly referred to as the ''Tunney Act''), 15 U.S.C. 16(b)–(h), the United States hereby responds to public comments regarding the Consent Decree proposed as the basis for settling this proceeding in the public interest. After careful consideration of these comments, the United States concludes that the proposed Consent Decree will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint. Once the public comments and this Response have been published in the Federal Register, pursuant to 15 U.S.C. 16(d), the United States will urge the Court to enter the Consent Decree as originally proposed.

On September 13, 1995, the United States and the State of Connecticut filed a Complaint alleging that Defendants HealthCare Partners, Inc., Danbury Area IPA, Inc., and Danbury Health Systems, Inc. violated Section 1 of the Sherman Act, 15 U.S.C. § 1. The Complaint also charges that Defendant Danbury Health Systems, Inc. violated Section 2 of the Sherman Act, 15 U.S.C. § 2. Simultaneously with the filing of the Complaint, the United States and the State of Connecticut filed a proposed Consent Decree, a Stipulation signed by all parties to entry of the Decree following compliance with the Tunney Act, and a Competitive Impact Statement (CIS).

Pursuant to the Tunney Act, on September 27, 1995, the Defendants filed the required description of certain written and oral communications made on their behalf. A summary of the terms of the proposed Decree and the CIS and directions for the submission of written comments were published in the *Danbury News-Times* for seven consecutive days, from September 22, through September 29, 1995. The proposed Consent Decree and the CIS

were published in the Federal Register on October 4, 1995. 60 Fed. Reg. 52014 (1995).

The 60-day period for public comments began on October 4, 1995, and expired on December 4, 1995. Two comments were submitted; the United States is filing them as attachments to this Response. The United States has concluded that the Consent Decree reasonably, adequately, and appropriately addresses the harm alleged in the Complaint. Therefore, the United States urges that following publication of the comments and this Response, this Court hold that entry of the proposed Consent Decree would be in the public interest.

I.

Background

Danbury Health Systems, Inc. (''DHS'') owns the Danbury Hospital which is a 450-bed acute care facility. It is the sole source of acute inpatient care in the Danbury area and possesses a monopoly in general acute inpatient care. The Hospital also provides outpatient surgical care and other services.

By 1992, managed care organizations had recruited a sufficient number of physicians with active staff privileges at Danbury Hospital to offer managed care plans to employers and individuals in the Danbury area. The introduction of managed care plans into the Danbury area reduced the Hospital's market power in inpatient services and decreased the number of hospital admissions and length of hospital stays. Managed care also resulted in increased competition among the doctors in Danbury and reduced referrals to Danbury Office of Physician Services (''DOPS''), the Hospital's affiliated multispecialty practice group.

On May 6, 1994, DHS implemented the first of two means it had developed to forestall the continued development of managed care plans in Danbury. DHS and virtually every doctor on its Hospital's medical staff incorporated HealthCare Partners. The Hospital and the physicians authorized HealthCare Partners to represent them jointly in negotiations with managed care organizations. Danbury Area IPA (''DAIPA'') was also formed on that date as a vehicle for physician ownership in HealthCare Partners. Each doctor who joined DAIPA contracted with HealthCare Partners and authorized it to negotiate fees on the doctor's behalf.

DHS's second means of forestalling the continued development of managed care plans was the exercise of its control over admitting privileges at the Hospital. DHS implemented a Medical Staff Development Plan to reduce competition among the doctors. It also proposed to amend its bylaws to require the active medical staff to perform a minimum volume of outpatient procedures at the Hospital rather than at competing outpatient facilities.

These actions, along with the additional conduct alleged in the Complaint, violated Sections 1 and 2 of the Sherman Act.

II.

Response to Public Comments

The two comments on the Consent Decree are both from physicians practicing in a group of neonatalogists, Complete Newborn Care. Neither objects to entry of the proposed Decree, nor contends that the Decree does not adequately and appropriately remedy the violations alleged in the Complaint. Dr. Alicia Perez says, in effect, that DHS has monopolized the delivery of healthcare in the Danbury area through additional means not charged in the Complaint or addressed in the Consent Decree. According to Dr. Perez, the formation of DOPS, its size, and the administrative functions of the Hospital performed by DOPS members unreasonably restrain competition among physicians. Dr. Perez asserts that Hospital physicians have improperly induced non-DOPS physicians to refer to DOPS and to use the Hospital's facilities. As set forth more fully below, Dr. Perez's comments do not provide a basis for not entering the Decree.

Similarly, Dr. Diana M. Lippi's comments do not raise any grounds for not entering the Decree. Rather, Dr. Lippi simply urges the Department to continue its investigation of DHS in light of the relationship between the Hospital and DOPS on which Dr. Perez commented and in order to address conduct of the Hospital occurring subsequent to the events set forth in the Complaint and redressed in the Decree.

Dr. Lippi contends that the Hospital is taking new actions to restrict medical staff privileges. Dr. Lippi's comments in fact support entry of the Decree, in that the Decree limits the Hospital's ability to use its control over staff privileges to reduce competition. Entry of the Decree gives the Court the authority to punish such actions if they violate the Decree. Moreover, the Tunney Act, as explained below, does not authorize the Court to reject the Decree on the grounds that the Hospital is, or will, abuse its control over privileges in ways that independently violate the antitrust laws, but are not challenged in the Complaint.

III.

The Legal Standard Governing The Court's Public Interest Determination

The Tunney Act directs the court to determine whether entry of the proposed Decree ''is in the public interest.'' 15 U.S.C. § 16(e). In making that determination, ''the court's function is not to determine whether the resulting array of rights and liabilities is one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.'' *United States v. Western Elec. Co.*, 993 F.2d 1572, 1576 (D.C. Cir.), *cert. denied*, 114 S. Ct. 487 (1993) (internal quotation and citation omitted).[1]

The Court should evaluate the relief set forth in the Decree in light of the claims alleged in the Complaint and should enter the Decree if it falls within the government's ''rather broad discretion to settle with the defendant within the reaches of the public interest.'' *United States v. Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995).

The Court is not ''to make *de novo* determination of facts and issues.'' *Western Elec.*, at 1577. Rather, ''[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General.'' *Id*. (internal quotation and citation omitted throughout). In particular, the Court must defer to the Department's assessment of likely competitive consequences, which it may reject ''only if it has exceptional confidence that adverse antitrust consequences will result—perhaps akin to the confidence that would justify a court in overturning the predictive judgments of an administrative agency.'' *Id*.[2]

The Court may not reject a decree simply ''because a third party claims it could be better treated.'' *Microsoft*, 56 F.3d at 1461 n.9. The Tunney Act does not empower the Court to reject the remedies in the proposed Decree based

[1] The *Western Electric* decision concerned a consensual modification of an existing antitrust decree. The Court of Appeals assumed that the Tunney Act was applicable.

[2] The Tunney Act does not give a court authority to impose different terms on the parties. *See, e.g., United States v. American Tel. & Tel. Co.*, 552 F. Supp. 131, 153 n.95 (D.D.C. 1982), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983) (Mem.); *accord* H.R. Rep. No. 1463, 93d Cong., 2d Sess. 8 (1974). A court, of course, can condition entry of a decree on the parties' agreement to a different bargain, *see, e.g., AT&T*, 552 F. Supp. at 225, but if the parties do not agree to such terms, the court's only choices are to enter the decree the parties proposed or to leave the parties to litigate.

on the belief that ''other remedies were preferable.'' *Id.* at 1460.

To a great extent it is the realities and uncertainties of litigation that constrain the role of courts in Tunney Act proceedings. *See United States* v. *Gillette Co.*, 406 F. Supp. 713, 715–16 (D. Mass. 1975). As Judge Greene has observed:

> If courts acting under the Tunney Act disapproved proposed consent decrees merely because they did not contain the exact relief which the court would have imposed after a finding of liability, defendants would have no incentive to consent to judgment and this element of compromise would be destroyed. The consent decree would thus as a practical matter be eliminated as an antitrust enforcement tool, despite Congress' directive that it be preserved.

United States v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982), *aff'd sub nom. Maryland* v. *United States*, 450 U.S. 1001 (1983) (Mem). Indeed, where, as here, the Consent Decree comes before the Court at the time the Complaint is filed, ''the district judge must be even more deferential to the government's predictions as to the effect of the proposed remedies * * *.'' *Microsoft*, 56 F.3d at 1461.

Moreover, the entry of a governmental antitrust decree forecloses no private party from seeking and obtaining appropriate antitrust remedies. Thus, Defendants will remain liable for any illegal acts, and any private party may challenge such conduct if and when appropriate.[3] If any of the commenting parties has a basis for suing Defendants, they may do so. The legal precedent discussed above holds that the scope of a Tunney Act proceeding is limited to whether entry of *this* particular proposed Consent Decree, agreed to by the parties as settlement of *this* case, is in the public interest.

Finally, the Tunney Act does not contemplate judicial reevaluation of the wisdom of the government's determination of which violations to allege in the Complaint. The government's decision not to bring a particular case on the facts and law before it at a particular time, like any other decision not to prosecute, ''involves a complicated balancing of a number of factors which are peculiarly within [the government's] expertise,'' such as ''whether [the government's] resources are best spent on this violation or another, whether the [government] is likely to succeed if it acts, whether the particular enforcement action requested best fits the [government's] overall policies, and, indeed, whether the [government] has enough resources to undertake the action at all.'' *Heckler v. Chaney*, 470 U.S. 821, 831 (1985); *see also Maryland v. United States*, 460 U.S. 1001, 1106 (1983) (Rehnquist, J., dissenting from summary affirmance). The Court may not ''reach beyond the complaint to evaluate claims that the government did *not* make and to inquire as to why they were not made.'' 56 F.3d at 1459 (emphasis added). Entry of the proposed Decree will not prevent the government from investigating and challenging, if appropriate, conduct not addressed in the current action.

[3] The commenters in fact previously sued Danbury Hospital and DOPS and obtained injunctive relief against them from this Court. It is the understanding of the United States that the commenters have filed a motion before Judge Dorsey in *Perez, et al. v. Danbury Hospital and Danbury Office of Physician Services, P.C.*, Civil Action No. 3:94-CV416(PCD), to hold defendants in that case in contempt. The contempt motion apparently rests at least in part on some of the conduct that Dr. Perez believes the United States should now investigate in connection with this case, namely, an allegation that DOPS physicians have coerced non-DOPS obstetricians to refer neonatalogy patients to DOPS neonatalogists. The United States is investigating whether that alleged conduct occurred and, if it did, whether it violates the Final Judgment proposed in this action.

IV.

Conclusion

The Tunney Act requires that public comments and this Response be published in the Federal Register. When that publication has been accomplished, the United States will notify the Court and urge entry of the proposed Consent Decree based on the Court's determination that the Decree is in the public interest.

Respectfully submitted,

Mark J. Botti,

Pamela C. Girardi,

U.S. Department of Justice, Antitrust Division.

Christopher F. Droney,

United States Attorney.

Carl J. Schuman,

Assistant U.S. Attorney.

Certificate of Service

I, Mark J. Botti, hereby certify that copies of the Response to Public Comments in *U.S. v. HealthCare Partners, Inc., et. al.*, Civ. No. 395CV01946RNC was served on the 18th day of January 1996 by first class mail to counsel as follows:

William M. Rubenstein,

State of Connecticut,

David Marx, Jr.,

McDermott, Will & Emery.

James Sicilian,

Day, Berry & Howard

October 27, 1995.

Gail Kursh,

Chief, Professions and Intellectual Property Section/Health Care Task Force, Department of Justice, Antitrust Division, 600 E Street N.W. Room 9300, Washington, D.C.

Dear Ms. Kursh, The consent decree pending in Civil No. 395–CV–01946–RNC concerning the antitrust suit brought by the Justice Department and the Connecticut Attorney General's Office against Danbury Health Systems (DHS) and the Danbury Area IPA (DAIPA) should be reconsidered in light of the following information.

The formation of the DAIPA is only a small part of a more far-reaching attempt by DHS to willfully monopolize health care in the Danbury area.

Despite the outcome of this case, there continues to be ongoing and extensive activity by DHS to maintain its monopoly in inpatient care and extend this monopoly into the outpatient care arena. These activities are a blatant attempt to eliminate competition from area physicians and other outpatient services. They promote the almost exclusive use of the services of the physician employees of the Danbury Office of Physician Services, P.C. (DOPS), other physicians affiliated with Danbury Hospital or the new ''Foundation'' which is forming, and outpatient ancillary services affiliated with or owned by DHS.

The consent decree prohibits activities by DHS to control medical staff privileges to reduce competition. However, at the last medical staff meeting on 10/10/95, the Hospital railroaded through amendments to the Medical Staff Bylaws including the establishment of a committee that could potentially limit the size and mix of the medical staff. This committee is to prescreen and interview applicants for medical staff privileges before they are evaluated by the medical department in which they seek privileges. This could allow the committee to discourage applicants representing competition to DHS and DOPS from continuing their application process. It could allow this committee, and not the competitive market, to decide which specialities in the area are over-represented or understaffed and could potentially allow DHS to expand DOPS to the detriment of competing groups.

Another amendment dissolved the category of ''courtesy staff''. Physicians with courtesy privileges are generally affiliated with competing hospitals. They do, however, admit a percentage of their patients to Danbury Hospital but are not required to fulfill many of the responsibilities of an active member of the Danbury Hospital staff. By eliminating this category, their patients would then be admitted to the ''house

doctor'' (DOPS) who would use DOPS consultants for any specialty services needed.

These amendments were ''passed'' without observing the process outlined in the Medical Staff Bylaws.

The medical staff is further controlled by DHS through DOPS. Although DOPS physicians constitute only about 25% of the medical staff at Danbury Hospital, an arrangement has been established which places a DOPS physician as Chairman of each medical department (except one, as a result of a per-existing contract) and a DOPS physician as Chief of virtually every medical service in which there are DOPS physicians. By virtue of their positions of power, DOPS physicians control the Executive Committee and 33% or more of all but one of the other committees of the medical staff.

The Chairmen of the departments are, in part, paid by the Hospital and, therefore, directed by Hospital recommendations and not the desires of the members of their departments. Indeed, when asked to whom they report, they reply, the President of the Hospital and CEO of DHS, rather than to the president of DOPS, their employer. I have knowledge of department Chairmen using their position as chairmen to influence referrals of patients to their won corporation, DOPS.

I urge you to continue your investigation of the antitrust activities of DHS and Danbury Hosptial to allow fair and unrestrained competition for health care services in our community.

Sincerely,

Diana M. Lippi.

October 23, 1995.

Gail Kursh,
Chief, Professions and Intellectual Property Section/Health Care Task Force, Department of Justice, Antitrust Division, 600 E Street, N.W., Room 9300, Washington, D.C. 20530.

By facsimile transmission and by regular mail.

Dear Ms. Kursch: In response to the Legal Notice in the Danbury News Times, I have several concerns regarding the proposed final Judgment against Health Partners Inc., et al., Civil No. 395–CV–01946–RNC.

Despite the objections to the Final judgment filed in the civil complaint, it is my opinion that Danbury Health Systems continues to protect its monopoly of health care in the Greater Danbury Area.

The anti-competitive activities of Danbury Health Systems Inc., its subsidiaries, and affiliates extends beyond the hospital and community walls. As the biggest employer in town the economic ramifications of its business associations and its political network are too powerful to allow for legitimate competition to exist in any arena.

Control and monopoly of inpatients at Danbury Hospital is accomplished through the affiliated physician corporation the hospital created in 1985, Danbury Office of Physician Services, P.C. (DOPS). The agreement between Danbury Hospital and DOPS physicians directly and indirectly restrains competition among physicians in Danbury, in violation of Section 1 of the Sherman Act.

DOPS physicians comprise approximately one fourth of the Medical Staff. However, these physicians are employed (paid) by Danbury Hospital to hold positions of power and thus control over the general Medical Staff. DOPS physicians are Chairmen of all but one of the clinical Departments, Chiefs of virtually all sections within the clinical departments, and hold the majority vote on many Medical Staff Committees. The Chairmen of the clinical departments at Danbury Hospital are accountable to the hospital's CEO and not to the members of their respective departments. Chairmen of clinical departments actively direct patient referrals to DOPS physicians, thus taking advantage of their administrative role for their own economic self-interest. DOPS physicians are in control of Medical Staff Committees, including most Peer Review Committees, and the activities of these committees are overwhelmingly targeted against non-DOPS physicians. Chairmen of clinical departments are free to disband a committee without discussion with or prior notification of its members or the President of the Medical Staff. Although DOPS physicians are not employed by Danbury Hospital directly, they are expected to support the philosophy and the wishes of the administration of the hospital.

Non-DOPS physicians are also intimidated and scare tactics are used by administrators to induce referrals to DOPS physicians. There are reports of special favors and/or privileges (i.e., O.R. schedules) being used as rewards to those physicians that refer to DOPS and use Danbury Hospital facilities exclusively.

During the last few weeks such tactics have been used to coerce community obstetricians (chosen to join the soon to be established HMO) to refer only to DOPS neonatologists. This practice disregards the prior established policy developed by the members of the Department of Pediatrics and agreed to by the members of the Department of Obstetrics and Gynecology. As a result, this practice has significantly reduced the referrals to my group.

I enclose a list of community pediatricians affiliated with Danbury Hospital. All you need to do to verify this anti-competitive practice is to ask the pediatricians to describe how they choose a neonatologist for referrals.

Respectfully,

Alicia Perez,

Pediatricians & Neonatologists Associated with Danbury Hospital

Brockfield

John Gundy, MD & Sarojini Kurra, MD, 300 Federal Road, 775–1118

Danbury

Lorraine Braza, MD, 69 Sandpit Road, 798–8228

Costom for Pediatrics Medicines, P.C.

Robert Golenbock, MD, Anna Paula Machado, MD, Joan Magner, MD, 107 Newtown Road, Suite 1D, 790–0822

Child Care Associates

Pushpa Mani, M.D., Rajadevi Satchi, MD, 57 North Street, Suite 209, 791–9599

Barry Keller, MD, 16 Hospital Avenue, 743–1201

Uwa Koepke, MD, 57 North Street, Suite 311, 792–4021

Christopher Randolph, MD & Martin Randolph, MD, 70 Deer Hill Avenue, 792–4021

Pediatric Associates

Leon Baczeski, MD, Bruce Cohen, MD, John Erti, MD, David Gropper, MD, Nandini Kogekar, MD, L Robert Rubin, MD, 41 Germantown Road, 744–1620

Pediatric Health Ctr./Danbury Hospital

Jack S. C. Fong, MD, Chief, Veronica Ron, MD, Gary Wenick, MD, 73 Stand Pit Road, 797–7216

New Fairfield

Oscar Lascano, MD, Fairwood Professional Building, 746–6000

New Milford

Josef Burton, MD, 23 Poplar Street, 355–4113

Vadakkekara Kavirajan, MD, 7 Pickett District Road, 355–4195

Candlewood Pediatrics

Diane D'Isidori, MD, Wendy Drost, MD, Evan Hack, MD, 17 Poplar Street, 355–8190

Newton

Humberto Bauta, MD, Danbury Newton Road, 426–3267

Alex Lagut, MD, 18 Church Hill Road, 426–1818

Pediatric Health Ctr. of Newton

Thomas Draper, MD, 184 Mount Pleasant Road, 426–2400

Ridgefield

Ridgefield Pediatrics

Robert Elisofon, MD, Susan Leib, MD, James Sheehan, MD, 38B Grove Street, 438–9557

Southberg

Southberg Pediatrics

Susan Beris, MD, 108 Main Street North, 264–9200

Neonatologists

Neonatologists, Dept. of Pediatrics, Danbury Hospital

Edward James, MD, Chief, Laura K. Lasley, MD, 24 Hospital Avenue, Danbury, CT 06810, 797–7150

Complete Newborn Care

Diana Lippi, MD, Alicia Perez, MD, Joseph M. Tuggle, MD, 57 North Street, Suite 408, Danbury, CT 06810, 790–4262

[FR Doc. 96–1794 Filed 1–31–96; 8:45 am]

BILLING CODE 4410–01–M

Immigration and Naturalization Service

[INS No. 1725R–96]

Citizens Advisory Panel Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of Meeting.

SUMMARY: The Immigration and Naturalization Service (Service) in

accordance with the Federal Advisory Committee Act (15 U.S.C. App. 2) and 41 CFR 101–6.1001–101–6.1035 (1992), has established a Citizens' Advisory Panel (CAP) to provide the Department of Justice with recommendations on ways to reduce the number of complaints of abuse made against employees of the Service, and to minimize or eliminate the causes for those complaints. This notice announces the CAP's forthcoming meeting and the agenda for the meeting.

DATES: February 26–27, 1996 at 8:00 A.M.

ADDRESSES: The Henley Park Hotel, 926 Massachusetts Ave., NW., The Eton Room, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Susan B. Wilt, CAP Designated Federal Official (DFO), Immigration and Naturalization Service, Room 3260, Chester Arthur Building, 425 I Street NW., Washington, DC 20536, Telephone (202) 616–7072.

SUPPLEMENTARY INFORMATION: Pursuant to the charging language of the Senate Appropriations Committee Report 102–331 on the FY 1993 Budget for the Immigration and Naturalization Service, Department of Justice, the Service established a Citizens' Advisory Panel for the purpose of providing recommendations to the Attorney General on ways to reduce the number of complaints of abuse made against employees of the Service and, most importantly, to minimize or eliminate the causes for those complaints. The CAP is authorized by the Attorney General to (1) accept and review civilian complaints made against Service employees, and (2) review the systems and procedures used by the Service for responding to such complaints. (February 11, 1994 at 59 FR 6658)

Summary of Agenda

The principal purpose of the meeting is to set forth recommendations on the Immigration and Naturalization Service's complaint process, education and the development of training, the current training curriculum, and training policies and procedures for Service employees.

Public Participation

The CAP meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the CAP DFO at least 2 days prior to the meeting by contacting the DFO at (202) 514–2373. Any hearing-challenged individuals wishing to attend please contact the DFO by February 20, 1996 so services can be arranged.

Any member of the public may file a written statement with the CAP DFO before the meeting. Materials submitted at the meeting should be submitted in 20 copies. Members of the public will not be permitted to present oral statements at the meeting.

Minutes of the meeting will be available on request from the CAP DFO.

Dated: January 25, 1996.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 96–1973 Filed 1–31–96; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Annual Reporting and Disclosure Requirements

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of Change to the 1995 Form 5500 Series and Request for Comment.

SUMMARY: This document announces a change made by the Department of Labor to items 15h and 26h on the 1995 Form 5500–C/R, ''Return/Report of Employee Benefit Plan (With Fewer Than 100 Participants),'' filed by administrators of employee benefit plans under Part 1 of title I of the Employee Retirement Income Security Act of 1974 (ERISA). This change, and additional guidance in the instructions to all forms in the 1995 5500 Series, relate to the handling of participant contributions by employers.

EFFECTIVE DATES: The change is incorporated in the 1995 Form 5500 Series, and is effective for plan years beginning on or after January 1, 1995.

ADDRESSES: Interested persons are invited to submit written comments to the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N5669, U.S. Department of Labor, 200 Constitution Ave NW., Washington, DC 20210. Attention: 1995 Form 5500 Series Comments.

FOR FURTHER INFORMATION CONTACT: Susan E. Rees, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, DC, (202) 219–9141, or George M. Holmes, Jr., Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC, (202) 219–8515. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: As part of its effort to enhance the security and protection of participant contributions, the Department has modified items 15h and 26h on the 1995 Forms 5500–C/R to enable more effective monitoring of the handling of participant contributions by employers.[1] Currently, item 15h of the 1994 Form 5500–CR, applicable to Form 5500–R filers, and item 26h of the 1994 Form 5500–C/R, applicable to Form 5500–C filers, asks whether, during the plan year, the employer owed contributions to the plan that are more than 3 months overdue, and if so, the amount. For the 1995 Form 5500–C/R, the Department has modified items 15h and 26h to focus on participant contributions due from the employer. As modified, item 15h and item 26h now ask whether, during the plan year, there were any participant contributions transmitted to the plan more than 31 days after receipt or withholding by the employer, and if so, the amount.

In general, the Department believes that the information required to be reported in modified item 15h and 26h on the Form 5500–C/R is, or should be, readily available and easily accessible from the plan's and/or the plan sponsor's records and, accordingly, should not result in any new or additional recordkeeping burdens on plans or employers. Further, as with the existing items 15h and 26h, an affirmative response to the modified items does not necessarily mean that the employer has violated ERISA. Lastly, this modification does not affect the administrators of plans with 100 or more participants filing the Form 5500 who, unlike Form 5500–C/R filers, are currently required to disclose on the Form 5500 detailed information about prohibited transactions involving delinquent participant contributions, and must have their plans audited annually by an independent qualified public accountant.[2]

Statutory Authority

These forms and instructions are issued pursuant to the Secretary's general rulemaking authority under section 505 of ERISA, and under

[1] Among other things, the Department has proposed an amendment to the participant contribution regulation to reduce the maximum amount of time an employer may hold participant contributions before such contributions constitute ''plan assets.'' *See* 29 CFR § 2510.3–102 and proposed amendment thereto at 60 Fed. Reg. 66036 (December 20, 1995).

[2] The instructions for the 1995 Form 5500 Series, including the Form 5500 and Form 5500–C/R, have been modified to remind filers that a failure to segregate participant contributions that constitute plan assets from an employer's general assets has prohibited transaction implications.

sections 104(a)(2)(A) and 104(a)(3) of Part 1 of title I of ERISA which authorize the Secretary to prescribe simplified reports. *See* 29 CFR 2520.104–41.

Effective Date of the Forms

The change to the Form 5500–C/R items 15h and 26h is effective for plan years beginning on or after January 1, 1995. The Department has determined that publication of the change as a proposal for comment prior to publication of the 1995 Form 5500 Series is impracticable and contrary to the public interest. The Department believes that reporting and disclosure of this information is important for the 1995 plan year, and, without incorporating the change immediately, the Department, and participants and beneficiaries, will not be able to monitor and take action on this information. The additional time needed to provide prior notice and opportunity for comment would delay printing and disseminating the 1995 Forms, creating administrative difficulties for filers, and ultimately would be detrimental to the interests of the participants and beneficiaries. Thus, the Department finds for good cause that this prompt action is necessary and permissible under section 553(b)(3)(B) of the Administrative Procedures Act (APA). The Department also has determined that good cause exists to waive the 30 day pre-effective date requirement of section 553(b)(3)(D) of the APA.

Although an opportunity to comment on the change has not been provided prior to the publication of the 1995 Form 5500 Series, the Department will consider public comment on the change for subsequent filing years.

Economic Impact

The Department certifies that the change will not have a ''significant economic impact on a substantial number of small entities'' within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The Department has also determined that this action is not a ''significant regulatory action'' within the meaning of Executive Order 12866 (58 FR 51735, Oct. 4, 1993).

Paperwork Reduction Act

The collection of information contained in this modification to the 1995 Form 5500 C/R has been submitted to the Office of Management and Budget for emergency processing under section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). OMB approval has been requested by February 6, 1996. For copies of the OMB submission, contact Mrs. Theresa O'Malley, U.S. Department of Labor, OASAM/DIRM, Room N–1301, 200 Constitution Ave. NW, Washington, D.C. 20210, 202–219–5095 or via internet to tomalley@dol.gov.

Comments are solicited on the Department's need for this information, specifically to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Persons wishing to comment on the collection of information should direct their comments to the Office of Information and Regulatory Affairs, OMB, Room 10235, NEOB, Washington, D.C. 20503, Attn: Desk Officer for PWBA. Comments must be filed with the Office of Management and Budget within 60 days of this publication. Although an opportunity to comment on the change has not been provided prior to the publication of the 1995 Form 5500 Series, the Department will consider public comment on the change for subsequent filing years. A copy of any comments filed with the Office of Management and Budget should also be sent to the following address at the Department: Mrs. Theresa O'Malley, U.S. Department of Labor, OASAM/DIRM, Room N–1301, 200 Constitution Ave. NW, Washington, D.C. 20210. For further information, contact Gerald B. Lindrew at 202–219–4782.

Title: Annual Report/Form 5500 Series (1210–0016).

Summary: Section 104(a)(1)(A) of ERISA requires plan administrators to file an annual report containing the information described in section 103 of ERISA. The Form 5500 Series provides a standard format for fulfilling that requirement.

Needs and Uses: The change to the Forms 5500–C and R described here is calculated to enhance the security and protection of participant contributions and to enable more effective monitoring of the handling of participant contributions by employers.

Respondents and Proposed Frequency of Response: The Department staff estimates that approximately 665,000 plans will file either Form 5500–C or Form 5500–R for the 1995 plan year (of the estimated 822,000 annual filers).

Estimated Annual Burden: The change to the Forms described here substitute one yes/no/amount question for another in reference to contributions to the plan. It is the belief of the Department of Labor that the same business records should be reviewed as in previous years, so there should be no affect upon the recordkeeping burden of the respondent plans. Therefore, the Department's annual collection burden for the Form 5500 Series will remain at the previously budgeted 1,014,000 hours.

The Change to Form 5500–C/R: Form 5500–C, line 26h, and Form 5500–R, line 15h, are modified to read as follows:

During this plan year:

Were any participant contributions transmitted to the plan more than 31 days after receipt or withholding by the employer?

Yes☐ No☐ Amount _____

Additional Guidance to the Form 5500–C/R Instructions:[3]

An instruction for Form 5500–C, line 26h, and Form 5500–R, line 15h, has been added as follows:

Amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan are participant contributions that become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets (see 29 CFR 2510.3–102). An employer holding these assets after that date commingled with its general assets will have engaged in a prohibited use of plan assets (see ERISA section 406). If a nonexempt prohibited transaction occurred with respect to a disqualified person (see Code section 4975(e)(2)), file IRS Form 5330 to pay any applicable excise tax on the transaction.

Signed at Washington, DC, this 29th day of January 1996.

Alan D. Lebowitz,

Deputy Assistant Secretary for Program Operations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 96–2140 Filed 1–31–96; 8:45 am]

BILLING CODE 4510–29–M

[3] The Department notes that similar guidance is provided for 1995 Form 5500 items 27e and f, relating to nonexempt prohibited transactions.

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Engineering (1170).

Date and Time: February 22; 9:00 a.m.–4:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 970, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Janie M. Fouke, Division Director, Division of Bioengineering and Environmental Systems, Room 565, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1320.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Bioengineering and Environmental Systems Division.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: January 29, 1996.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 96–2147 Filed 1–13–96; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

The Lobbying Disclosure Act of 1995

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: President Clinton recently signed into law the Lobbying Disclosure Act of 1995 (the ''Act''), which requires some individuals and entities who lobby ''covered'' Federal officials to register with Congress and file semiannual reports describing their lobbying activities.

For purposes of the Act, NRC ''covered'' officials are limited to the Members of the Commission and their personal staffs, the Inspector General, the Executive Director for Operations, the General Counsel and the Directors of the Offices of Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards and Nuclear Regulatory Research.

FOR FURTHER INFORMATION CONTACT: Daryl M. Shapiro, Office of the General Counsel at 301–415–1600.

Dated at Rockville, Maryland, this 25th day of January, 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96–1862 Filed 1–31–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 50–275]

Diablo Canyon Nuclear Power Plant, Unit No. 1; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–80 issued to Pacific Gas and Electric Company (the licensee) for operation of the Diablo Canyon Nuclear Power Plant, Unit No. 1, located in San Luis Obispo County, California.

The proposed amendment would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant, Unit Nos. 1 and 2, to allow operation of Unit 1 in Mode 3 (Hot Standby) during installation of a replacement nonvital auxiliary transformer 1–1. Specifically, TS 3/4.8.1.1, ''Electrical Power Systems—A.C. Sources—Operating,'' Action Statement (a), would be revised to permit a one-time extension of the allowed outage time (AOT) from 72 hours to 120 hours.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

A probabilistic risk assessment (PRA) evaluation shows that the probability of a loss of off site power duration is increased slightly by the allowed outage time (AOT) increase from 72 to 120 hours. The core damage probability is 1.2 E–7 for the total 120 hour AOT. Based on EPRI/NEI [Electric Power Research Institute/Nuclear Energy Institute] guidance, this increase is not considered significant.

The consequences of the 230 kV system loss are not affected by increasing the AOT of the 500 kV system. Additionally, the consequences of the potential event are mitigated by the compensatory measures taken to assure the reliability of the remaining power sources.

Therefore, the proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not affect the method of operating any equipment at Diablo Canyon Power Plant. Additionally, the proposed extension of the AOT does not result in a physical modification to any equipment.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

A PRA evaluation has shown that the impact of extending the AOT has no significant impact on core damage frequency. Additionally, compensatory measures have been implemented to minimize the potential of losing the 230 kV system.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period.

However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 4, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248–5100 (in Missouri 1-(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to William H. Bateman, Director, Project Directorate IV–2: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the

presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 18, 1996, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Rockville, Maryland, this 26th day of January 1996.

For the Nuclear Regulatory Commission.

Steven D. Bloom,

Project Manager, Project Directorate IV–2; Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–2049 Filed 1–31–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–445 and 50–446]

Comanche Peak Steam Electric Station, Units 1 and 2; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Consideration of Issuance of Amendment: Correction.

SUMMARY: This document corrects a notice appearing in the Federal Register on January 22, 1996 (61 FR 1651), that states the Commission is considering issuance of an amendment to Facility Operating License Nos. NPF–87 and NPF–89, issued to Texan Utilities Electric Company (TU Electric, the licensee), for operation of the Comanche Peak Steam Electric Station, Units 1 and 2 located on Somervell County, Texas. The action is necessary to correct the 30-day filing date.

On page 1652, in the first paragraph in the first column, the date ''February 20, 1996,'' should read ''February 21, 1996.''

Dated at Rockville, Maryland, this 26th day of January, 1996.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules Review Section, Rules Review and Directives Branch.

[FR Doc. 96–2050 Filed 1–31–96; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Repayment of Debt (ORSP).
(2) *Form(s) submitted:* G–421f.
(3) *OMB Number:* 3220–0169.
(4) *Expiration date of current OMB clearance:* February 29, 1996.
(5) *Type of request:* Extension of a currently approved collection.
(6) *Respondents:* Individuals or households.
(7) *Estimated annual number of respondents:* 300.
(8) *Total annual responses:* 300.
(9) *Total annual reporting hours: 25.*
(10) *Collection description:* Section 2 of the Railroad Retirement Act provides for payment of annuities to retired or disabled railroad employees, their spouses, and eligible survivors. When the RRB determines that an overpayment of RRA benefits has occurred, it initiates prompt action to notify the claimant of the overpayment and to recover the amount owed.

The collection obtains information needed to allow for repayment by the claimant by credit card, in addition to the customary form of payment by check or money order.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven, (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 96–2137 Filed 1–31–96; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36777; File No. SR–CHX–96–01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to MAX

January 26, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. § 78s(b)(1), notice is hereby given that on January 25, 1996, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The exchange proposes to amend subsection (e) of Rule 37 of Article XX relating to the CHS's MAX System. The test of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]:

Article XX

Rule 37

(e) The Exchange's Enhanced SuperMAX program shall be an automatic execution program within MAX in which a Specialist may voluntarily choose to participate on a stock-by-stock basis. A Specialist shall decide if his or her stock will be eligible for Enhanced SuperMAX treatment. In the event that a stock is eligible for Enhanced SuperMAX treatment (pursuant to paragraph (e) of this Rule) and SuperMAX treatment (pursuant to paragraph (c) of this Rule) at the same time, the size of the order *and the inclusion of security in the S&P 500™ Index* will determine which program will be followed for execution. *If a stock is not included in the S&P 500™ Index, an order of 299 shares or less will execute according to the SuperMAX program and an order from 300 shares up to and including 1099 shares (or such greater size specified by the specialist and approved by the Exchange) will execute according to the Enhanced SuperMAX program. If a stock is included in the S&P 500™ Index, or if a specialist in a non-S&P 500™ Index issue so chooses, a*[A]n order of 599 shares or less will execute according to the SuperMAX program and an order *from 600 shares up to and including 1099 shares (or such greater size specified by the specialist and approved by the Exchange)* [greater than 599] will execute according to the Enhanced SuperMAX program. In the

event that a Specialist determines that his stock is eligible for Enhanced SuperMAX program *only* and voluntarily chooses to participate in Enhanced SuperMAX program, agency market orders up to and including 1099 shares (or such greater size specified by a specialist and approved by the Exchange) in that stock may automatically be stopped and executed in MAX, through the Enhanced SuperMAX program, without any specialist intervention based on the following criteria:

(1)–(7) No change in text.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On May 22, 1995, the Commission approved a proposed rule change of CHX that allows specialists on the Exchange, through the Exchange's MAX System, to provide order execution guarantees that are more favorable than those required under CHX Rule 37(a), Article XX.[1] That approval order contemplated that the CHX would file with the Commission specific modifications to the parameters of MAX that are required to implement various options available under this new rule.

The purpose of this proposed rule change is to amend an existing option currently available under this new rule. Specifically, the Exchange proposes to provide a specialist with more flexibility in placing a stock on both SuperMAX and Enhanced SuperMAX. Currently, if a specialist places a stock in both programs, orders from 100 to 599 shares are executed under the SuperMAX algorithm and orders greater than 599 shares up to 1099 shares are executed under the Enhanced SuperMAX algorithm. Specialists, however, have been hesitant to use this combination feature for stocks that are not included in the S&P 500 Index. While the specialists are in favor of price improvement, they believe that, at least with respect to the less liquid stocks, using the SuperMAX automated price improvement algorithm, which historically has provided price improvement to approximately 50% of eligible orders in stocks that participate in the program, for executions of orders up to 599 shares is not feasible or economically practical. For the larger size orders in these non-S&P issues (*i.e.*, order greater than 299 shares), the Enhanced SuperMAX algorithm, which appears, based on the Exchange's limited experience with this program, to provide price improvement less often than SuperMAX, may be more appropriate.

Thus, this rule change will permit a specialist to place a stock that is not listed in the S&P 500 Index on both SuperMAX and Enhanced SuperMAX and have orders from 100 to 299 shares execute under the SuperMAX algorithm and orders from 300 to 1099 shares execute under the Enhanced SuperMAX algorithm. As a practical matter, despite the fact that the SuperMAX threshold will be reduce by this new feature, the SuperMAX algorithm will still apply to the majority of orders using this feature. In December 1995, for example, approximately 60% of the orders that were sent to the Exchange through the MAX System were orders for 100 to 299 shares. Under this new feature, these orders are still eligible for execution under the SuperMAX algorithm.

By providing additional flexibility to specialists, the Exchange believes that this rule change will significantly increase the number of issues and orders that participate in the Exchange's SuperMAX price improvement program. Currently, out of the approximately 2600 Dual Trading System issues[2] traded on the Exchange, approximately 2000 have been made eligible for either SuperMAX or Enhanced SuperMAX. Approximately 1100 of these 2000 issues are currently on Enhanced SuperMAX and approximately 900 are either on SuperMAX or are on the current combined feature. Out of the approximately 900 issues on SuperMAX or on the current combined feature, approximately 460 are S&P 500 Index issues. Out of the 1100 issues on Enhanced SuperMAX, about 1080 are currently non-S&P 500 Index issues. This rule change is targeted at the 1080 non-S&P 500 Index issues currently on Enhanced SuperMAX and at the approximately 600 non S&P 500 Index issues that are not on any automated price improvement algorithm.[3]

While it is possible that if this rule change is implemented, specialists in the approximately 460 non-S&P 500 issues that are currently on SuperMAX may switch those stocks to this new combined feature (which has a lower SuperMAX threshold than the current SuperMAX feature), the Exchange believes, after discussions with these specialists, that this proposed rule change will result in a greater number of issues and orders that will be made eligible for the SuperMAX algorithm and a greater overall incidence of price improvement on the Exchange. This is consistent with the Exchange's experience when it added the Enhanced SuperMAX program as an option last year. Despite the existence of this option, approximately 460 non-S&P 500 issues participate in SuperMAX and approximately 80 S&P 500 issues remain on SuperMAX up to 1099 shares.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) the Exchange has provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective

[1] *See* Securities Exchange Act Release No. 35753 (May 22, 1995), 60 FR 28007 (May 26, 1995).

[2] The Dual Trading System of the Exchange allows the execution of both round-lot and odd-lot orders in certain issues assigned to specialists on the Exchange and listed on either the New York Stock Exchange or the American Stock Exchange.

[3] The Exchange notes that price improvement is available for all orders submitted to the Exchange through the MAX System even if an automated price improvement algorithm is not used.

pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder.[4]

A proposed rule change filed under Rule 19b–4(e)[5] does not become operative prior to thirty days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. CHX has requested, in order for it to encourage CHX specialists to add more stocks to automated price improvement algorithm programs as soon as possible, that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the thirty days specified under Rule 19b–4(e)(6)(iii).[6] The Commission finds that the proposed rule change is consistent with the protection of investors and the public interest and therefore has determined to make the proposed rule change operative as of the date of this order.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–96–01 and should be submitted by February 22, 1996.

[4] 17 CFR 240.19b–4(e)(6) (1994).

[5] 17 CFR 240.19b–4(e).

[6] 17 CFR 240.19b–4(e)(6)(iii).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margert H. McFarland,

Deputy Secretary.

[FR Doc. 96–2059 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36778; File No. SR–CBOE–95–62]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change Regarding Book-Entry Settlement of Securities Transactions and Depository Eligibility Requirements

January 26, 1996.

On October 19, 1995, the Chicago Board Options Exchange, Incorporated (''CBOE'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–CBOE–95–62) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] On October 26, 1995, CBOE filed an amendment to the proposed rule change.[2] Notice of the proposed rule change was published in the Federal Register on December 18, 1995.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

Under the rule change, CBOE has added Rules 30.136 and 30.137 to Chapter XXX of its rules in an effort to encourage book-entry settlement of securities transaction.[4] The new rules are in response to recommendations of the Group of Thirty, U.S. Working Committee (''U.S. Working Committee''), Clearance and Settlement Project (''Project''), regarding book-entry settlement of securities transactions.[5] In connection with the Project, the U.S. Working Committee recommended that settlements of transactions in corporate and municipal securities among financial intermediaries (brokers, dealers, and banks) and between financial intermediaries and their institutional clients be effected only by book-entry movements within a depository.[6] Thereafter, six national securities exchanges and the National Association of Securities Dealers, Inc. (''NASD'') adopted uniform book-entry settlement rules in conformity with the Committee's recommendations.[7] Both of the CBOE's new rules are substantially the same as rules previously adopted by six other national securities exchanges and the NASD, which rules are designed to ensure that the vast majority of securities transactions effected in the U.S. will be settled by book-entry.[8]

Subject to certain exceptions set forth in the text of the rule and described below, CBOE Rule 30.136 requires the use of the facilities of a registered securities depository for the book-entry settlement of all transactions in depository eligible securities (1) between a CBOE member and a financial intermediary or a member of a national securities exchange or a registered securities association and (2) between a CBOE member and its customers if settlement is to be effected on a delivery-versus-payment (''DVP'') or receipt-versus-payment (''RVP'') basis. As is the case under comparable rules adopted by other self-regulatory organizations, Rule 30.136 does not apply to or affect the manner in which member firms settle (1) transactions with traditional retail customers (who typically do not have DVP/RVP privileges), (2) transactions in securities that are not depository eligible,[9] or (3)

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Michael L. Meyer, Schiff, Hardin & Waite, to Mark Steffensen, Division of Market Regulation (''Division''), Commission (October 16, 1995).

[3] Securities Exchange Act Release No. 36568 (December 8, 1995), 60 FR 65074.

[4] The rules in Chapter XXX govern the listing and trading of debt and equity securities, warrants, UIT interests, and such other securities as may be determined by CBOE's Board of Directors. Chapter XXX does not apply to the trading of option contracts.

[5] The Group of Thirty is an independent, nonpartisan, nonprofit organization established in 1978. In its March 1989 report, the Group of Thirty made nine recommendations, including the recommendation that final settlement of securities transactions should occur by T+3, for harmonizing clearance and settlement practices worldwide. The U.S. Working committee, comprised of representatives from brokerage firms, banks, other financial intermediaries, and major industry organizations was formed to study the existing U.S. clearance and settlement system and to recommend reforms consistent with the Group of Thirty recommendations.

[6] U.S. Working Committee, Implementing the Group of Thirty Recommendations in the United States (November 1990).

[7] Securities Exchange Act Release No. 32455 (June 11, 1993), 58 FR 33679 (order approving proposed rule changes of the American Stock Exchange (''Amex''), Boston Stock Exchange (''BSE''), Midwest Stock Exchange [now the Chicago Stock Exchange (''CHX'')], New York Stock Exchange (''NYSE''), Pacific Stock Exchange (''PSE''), Philadelphia Stock Exchange (''PHLX''), and NASD requiring book-entry settlement of securities transactions).

[8] Because CBOE did not then provide a market in depository eligible securities, it did not adopt the uniform rule at that time.

[9] Under Rule 30.136(d), depository eligible securities is defined to mean securities that (i) are part of an issue (as identified by a single CUSIP number) of securities that is eligible for deposit at a securities depository and (ii) with respect to a

Continued

transactions in which settlement occurs outside the U.S. Rule 30.136 also does not apply to transactions where the securities to be delivered in settlement of a transaction are not on deposit at a securities depository and (1) the transaction is for same-day settlement and the deliverer cannot by reasonable efforts deposit the securities prior to the depository's cut-off time for same-day crediting of deposited securities or (2) the deliverer cannot by reasonable efforts deposit the securities prior to a cut-off time established for that issue by the depository. The latter exception is intended to address corporate reorganizations and other extraordinary activities.

CBOE Rule 30.137 also reflects a response to a directive from the Group of Thirty to address the need to raise clearing and settlement standards.[10] Rule 30.137 requires that before any issue of a domestic issuer's securities is listed for trading on CBOE the issuer must represent to CBOE that the CUSIP number identifying the issue has been included in the file of eligible issues maintained by a registered securities depository. This requirement does not apply to a security if the terms of the security cannot be reasonably modified to meet the criteria for depository eligibility at all securities depositories. In addition, the rule does not apply to American Depositary Receipts for securities of a foreign issuer.

Rule 30.137 also sets forth additional requirements that must be met before a security will be deemed to be depository eligible within the meaning of the rule. These requirements are premised upon whether a new issue is distributed by an underwriting syndicate before or after the date a securities depository system is available for monitoring repurchases of the distributed shares by syndicate members (*i.e.*, a ''flipping tracking system'').

Currently, a flipping tracking system is being developed that: (1) Can be activated upon the request of the managing underwriter for a period of time that the managing underwriter specifies (2) in certain circumstances, will require the delivering participant to provide to the depository information sufficient to identify the seller of such shares as a precondition to the processing of book-entry delivery instructions for distributed shares, and (3) will report to the managing underwriter the identity of any other syndicate member or selling group member whose customer(s) sold distributed shares (but will not report to the managing underwriter the identity of such customer[s]) and in certain circumstances will report to such syndicate member or selling group member the identity of such customer(s). Prior to the availability of a flipping tracking system, the managing underwriter may delay the date a security is deemed depository eligible for up to three months after trading has commenced in the security. After the availability of a flipping tracking system, a new issue must be depository eligible before commencement of trading on CBOE.

II. Discussion

The Commission believes that the rule change is consistent with Section 6(b)(5).[11] Section 6(b)(5), among other things, requires that the rules of a national securities exchange be designed to remove impediments to and perfect a national market system. Both the book-entry settlement and depository eligibility requirements should reduce the problems associated with settling securities transactions by means of physical delivery of certificates and thereby should promote the perfection of a national market system and should promote efficiencies within that system.

Furthermore, the Commission believes the rule change should promote the purposes of Section 17A of the Act.[12] In Section 17A, Congress called for the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions. In Section 17A(e),[13] Congress directed the Commission to use its authority to end the physical movement of securities certificates in connection with the settlement among brokers and dealers of transactions in securities.

Book-entry settlement of interdealer securities transactions has been a goal since Congress enacted the Securities Acts Amendments of 1975.[14] Since 1975, substantial progress has been made in reducing the flow of physical certificates for settlement of interdealer and institutional securities transactions.[15] In 1993, the Commission approved the uniform book-entry settlement rules applicable to certain transactions in depository eligible securities [16] as a means to facilitate the conversion from a five-day settlement cycle to a three-day settlement cycle, which occurred on June 7, 1995.[17] The present rule change is designed to facilitate efficient and timely settlement of trades through the various market facilities and to further aid the transition to a three-day settlement cycle by requiring book-entry settlement of depository eligible issues and by increasing the number of such depository eligible securities.[18] CBOE's addition of book-entry and depository eligibility requirements should reduce costs, risks, and delays associated with the physical delivery of securities certificates and should eliminate many of the labor intensive functions associated with physical delivery of nondepository eligibility securities.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposals are consistent with Sections 6 and 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (File No. SR–

particular transaction are eligible for book-entry transfer at the depository at the time of settlement of the transaction.

[10] The rule is substantially identical to a uniform depository eligible rule that was developed through the coordinated efforts of six national securities exchanges and the NASD and has been incorporated in the rules of those self-regulatory organizations. Securities Exchange Act Release No. 35798 (June 1, 1995), 60 FR 30909 (order approving proposed rule change of Amex, BSE, CHX, NYSE, PSE, PHLX, and NASD regarding uniform depository eligibility rules).

[11] 15 U.S.C. § 78f(b)(5) (1988).

[12] 15 U.S.C. § 78q–1 (1988).

[13] 15 U.S.C. § 78q–1(e) (1988).

[14] Pub. L. No. 94–29, 89 Stat. 97 (1975) (codified at 15 U.S.C. §§ 77–80h (1988)).

[15] *E.g.*, Securities Exchange Act Release Nos. 22021 (September 23, 1983), 48 FR 45167 (order granting full registration to nine clearing agencies); 19698 (April 15, 1983), 48 FR 17604 (order implementing The Depository Trust Company's (''DTC'') Fast Automated Securities Transfer program); 30283 (January 23, 1992), 57 FR 3658 (order implementing DTC's Deposit/Withdrawal at Custodian program); 30505 (March 20 1992), 57 FR 10683 (order eliminating DTC's Certificate on Demand service for most corporate issues); 31645 (December 23, 1992), 57 FR 62407 (order approving rule change requiring that most interdealer transactions in municipal securities be settled by book-entry through a depository); and 32455 (June 11, 1993), 58 FR 33679 (order approving uniform book-entry settlement rules).

[16] *Supra* note 7 and accompanying text.

[17] Securities Exchange ACt Release Nos. 33023 (October 6, 1993), 58 FR 52891 (adoption of Rule 15c6–1) and 34952 (November 9, 1994), 59 FR 59137 (change of effective date of Rule 15c6–1 from June 1, 1995, to June 7, 1995).

[18] Although the rule change should serve to further reduce the number of transactions in depository eligible securities for which settlement is effected by the delivery of physical certificates, it will not eliminate the ability of investors to obtain physical certificates after settlement of the transaction. As the Commission previously has noted, subject to an issuer's determination whether to make physical certificates available to shareholders, the Commission believes investors should be able to obtain negotiable certificates on request. Securities Exchange Act Release No. 35038 (December 1, 1994), 59 FR 63652 [File No. S7–34–94] at note 17.

[19] 15 U.S.C. § 78s(b)(2) (1988).

CBOE–95–62) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2057 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36772; File No. SR–DGOC–96–01]

Self-Regulatory Organizations; Delta Government Options Corp.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Establishment of Fees Charged for Repurchase Agreements

January 25, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 16, 1996, Delta Government Options Corp. (''DGOC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DGOC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to establish DGOC's fee schedule for repurchase and reverse repurchase agreements trades involving U.S. Treasury securities as the underlying instrument (''repos'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DGOC included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DGOC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish DGOC's fee schedule for repo trades. On October 13, 1995, DGOC commenced its clearance and settlement system for repos.[3] At that time, DGOC did not propose any fees. DGOC has now set fees for repo trades as follows.

Term of the trade	Fee based on invoice price[4]
0–30 days	.05 Basis Points[5] per day.
Greater than 30 days	.033 Basis Points/per day.

DGOC believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act,[6] which requires that the rules of a registered clearing agency provide for equitable allocation of reasonable dues, fees, and other charges for services it provides to its participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

DGOC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by DGOC, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and Rule 19b–4(e)(2) thereunder.[8] At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Intersted persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at DGOC. All submissions should refer to the File No. SR–DGOC–96–01 and should be submitted by February 22, 1996.

For the Commission by the Division of Market Regulation, pursaunt to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2013 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36780; File No. SR–NASD–96–03]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Association's FOCUS Filing Plan

January 26, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. § 78s(b)(1), notice is hereby given that on January 24, 1996, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD.[1] The

[20] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The Commission has modified parts of these statements.

[3] For a description of DGOC's repo system, see Securities Exchange Act Release No. 36367 (October 13, 1995), 60 FR 54095.

[4] Invoice price equals the amount for which the reverse repurchase agreement is settled (principal amount of the underlying securities plus the repo interest).

[5] A basis point equals 1/100th of a percent.

[6] 15 U.S.C. 78q–1(b)(3)(D) (1988).

[7] 15 U.S.C. 78q–1(b)(3)(A) (1988).

[8] 17 CFR 240.19b–4(e)(2) (1994).

[9] 17 CFR 200.30–3 (a)(12) (1994).

[1] The proposal was originally filed with the Commission on January 16, 1996. The NASD

Continued

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend the Plan of the National Association of Securities Dealers, Inc. For the Implementation of Parts I, II & IIA of Form X–17A–5 Financial and Operation Combined Uniform Single Report (''Focus Report'') and Schedule I Thereunder as Amended. Below is the text of the proposed rule change.[2] Proposed new language is italicized; proposed deletions are in brackets.

Plan of the National Association of Securities Dealers, Inc. for the Implementation of Parts I, II & IIA of Form X–17A–5 *Financial and Operational Combined Uniform Single Report (''Focus Report'')* and Schedule I Thereunder as Amended

1. Every member that is subject to the requirements of subparagraph (e) of SEC Rule 15c3–3 or that conducts a business in accordance with [the exemptive provisions specified in subparagraph (k)(2)(i) thereof shall file a monthly Part I of Form X–17A–5. Such report shall be filed with the Association on or before the tenth (10th) business day of the next month following the month-end reporting date. In addition, pursuant to the provisions of subparagraph (a)(2)(iv) of SEC Rule 17a–5, every member that conducts a business in accordance with the exemptive provisions specified in subparagraph (k)(2)(ii) of SEC Rule 15c–3–3 shall file a monthly FOCUS Part I of Form X–17A–5.] *subparagraph (k)(2)(i) of Rule 15c3–3, or that is subject to subparagraph (a)(2)(i) through (a)(2)(iii) of SEC Rule 15c3–1 shall file monthly a FOCUS Part II Report. Such report shall be filed on or before the 17th business day of the next month following the month-end reporting date. The monthly filing for those months that are not calender quarters shall contain only the balance sheet, net capital computation, reserve formula computation, the net monthly profit or loss, and certain financial and operational data. The filing made at each calendar quarter-end shall contain a complete detailed profit and loss statement and all other schedules required by SEC Rule 17a–5.*

2. [Every member that is subject to the requirements of subparagraph (e) of SEC Rule 15c3–3 or that conducts a business in accordance with the exemptive provisions of subparagraph (k)(2)(i) thereof shall file a quarterly Part II of Form X–17A–5 with the Association on or before the seventeenth (17th) business day of the next month following the calendar quarter ending date] *Every member that conducts a business in accordance with subparagraph (k)(1)(i) through (iii), (k)(2)(ii), or (k)(3) of SEC Rule 15c3–3 and is not subject to subparagraphs (a)(2)(i) through (a)(2)(iii) of SEC Rule 15c3–1 shall file quarterly a FOCUS Part IIA Report. Such report shall be filed on or before the 17th business day of the next month following the end of the calendar quarter.*

3. Every member that conducts a business in accordance with [the provisions of subparagraphs (k)(1)(i) through (iii), (k)(2)(ii) or (k)(3) of SEC Rule 15c–3–3 shall file a quarterly Part IIA of the Form X–17A–5 with the Association on or before the seventeenth (17th) business day of the next month following the calendar quarter ending date.] *subparagraphs (a)(6), (a)(7), and (a)(8) of SEC Rule 15c3–1 shall file quarterly a FOCUS Part IIA Report. Such report shall be filed on or before the 17th business day of the next month following the end of the calendar quarter.*

4. The provisions of paragraphs (1), (2) and (3) of this plan shall not apply to any member not designated to the Association pursuant to SEC Rule 17d–1 (17 CFR 240.17d–1); *provided, however,* that Form X–17A–5 information which is required to be furnished to the Commission by other self-regulatory designees for Association members having exchange memberships is provided to the Association on a quarterly basis pursuant to an arrangement or arrangements which shall be mutually agreeable to the SEC, the Association and such other regulatory body.

5. The provisions of paragraphs (1), (2) and (3) of the plan shall not apply to any insurance company that: is registered with the SEC as a broker-dealer and is a member of this Association; is exempt from SEC Rule 15c3–1; and, is otherwise operating in accordance with the requirements of subparagraph (k)(1)(iv) of SEC Rule 15c3–3.

6. Every member subject to the requirements of paragraphs (2) or (3) of this plan that receives written notice from the Association that it has exceeded [parameters of] financial and operational condition *parameters* established by the Association shall file Part II or IIA of Form X–17A–5 or such other financial and operational information on a monthly or such other basis as determined by the Association. Among other things, such additional information may be required of a member whenever it is referred by the Association to SIPC pursuant to Section 5(a) of the Securities Investors Protection Act of 1970, as amended; whenever it is subject to monitoring by the Association on a closer-than-normal surveillance basis; or, whenever it is deemed necessary for reasons relating to any member's financial and/or operational condition or the condition of the marketplace or the industry.

7. Every member, other than those referenced in paragraph (4) above, which is subject to the requirements of paragraph (d) of SEC Rule 17a–5, shall file an additional Part II or Part IIA of Form X–17A–5, as applicable, with the Association within seventeen (17) business days after the date selected for the annual audit whenever said date is other than a calendar quarter.

8. Edited data from the information supplied the Association on reports filed by members pursuant to paragraphs *(1) (quarterly filings only),* (2) and (3) of this plan shall be furnished *to* the Commission by the Association on a quarterly basis on a date not later than sixty (60) calendar days following quarter ending reporting date. Such data shall be supplied *to* the Commission on magnetic computer tape in a format compatible, to the extent technically possible, with the computer tape criteria specified by the SEC and attached hereto as Exhibit A.

9. Upon request, the Association shall furnish the Commission with information contained on reports filed by members pursuant to this plan in a form and format which shall be mutually agreed upon by the Commission and the Association.

10. The information supplied the Association on Parts [I], II[,] and IIA of Form X–17A–5 by members participating in this plan which are also members of one or more national securities exchanges shall be furnished by the Association to such other exchange or exchanges in a format and on a schedule which shall be mutually agreed upon by the Association and such other exchange or exchanges.

11. For the fourth calendar quarter ending December 31 of each year, every member shall file Schedule I of Form X–17A–5 with the Association within seventeen (17) business days following the *end of the* calendar quarter [ending date]. Such schedules shall be filed jointly with the member's normal quarterly filing of Part II or IIA of Form X–17A–5 for the same period ending date.

12. The provisions of paragraph (11) of this plan shall not apply to any member which is not designated to the Association pursuant to SEC Rule 17d–1 (17 CFR 240.17d–1).

13. Edited data from the information supplied by members on Schedule I of Form X–17A–5 and received by the Association pursuant to paragraph (11) of this plan shall be furnished to the Commission by the Association on a date no later than one-hundred (100) calendar days following the end of the calendar year. Such data shall be supplied the Commission on magnetic computer tape in a format compatible, to the extent technically possible, with the computer tape criteria specified by the SEC and attached hereto as Exhibit B.

14. Members request to file any part of Form X–17A–5 with the Association, *including Schedule I,* shall do so electronically in accordance with the provisions of the Electronic FOCUS Filing System *User's Guide* as it may be changed by the Association from time to time. Notwithstanding the foregoing, the requirement to file electronically shall not apply to the annual financial statement filed pursuant to SEC Rule 17a–5(d).

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subsequently submitted Amendment No. 1 to the filing. This document provides notice of the filing as amended. Letter from Elliot Curzon, Assistant General Counsel, NASD, to Mark Barracca, Branch Chief, Over-the-Counter Regulation, Division of Market Regulations, SEC, dated January 24, 1996.

[2] The text refers to Exhibits A and B of the FOCUS filing plan which are not attached to this amendment.

15. In the event that the Association enters into an agreement with another self-regulatory organization to provide data processing services in respect to Form X–17A–5 reports and/or schedules collected by such organization on behalf of its designated members pursuant to a plan adopted by that organization and declared effective by the Commission, the Association shall, pursuant to a written agreement, process the information collected by such organization for transmission to the Commission in accordance with the same criteria and specifications employed by the Association in the processing of data collected by it from its designated members pursuant to this plan.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Background

SEC Rule 17a–5 requires all registered broker-dealers to submit certain financial information on Form X–17A–5 (FOCUS Reports). Paragraph (a)(4) of SEC Rule 17a–5 provides that the filing requirements contained in paragraphs (a)(2) and (a)(3) shall not apply to a member of a registered national securities association if the association, among other things, has members make FOCUS filings pursuant to a plan, procedures and provisions of which have been submitted to and declared effective by the SEC. The Association has had a FOCUS filing plan (Plan) in effect since December 16, 1977, and it has been amended from time to time since then.

Currently, the Plan requires every member that is subject to the requirements of subsection (e) of SEC Rule 15c3–3[1] or, that conducts a business in accordance with subparagraph (k)(2)(i), must file monthly Part I of Form X–17A–5. The report must be filed on or before the tenth business day of the next month following the month-end reporting date. Additionally, every member which conducts a business in accordance with subparagraph (k)(2)(ii) must file monthly Part I of Form X–17A–5 and members subject to subparagraph (e) or (k)(2)(i) shall also file quarterly a FOCUS Report Part II on or before the seventeenth business day of the next month following the end of the calendar quarter. Members that conduct a business in accordance with subparagraphs (k)(1) (i) through (iii), (k)(2)(ii) or (k)(3) of SEC Rule 15c3–3 shall file quarterly a FOCUS Part IIA on or before the seventeenth business day of the next month following the end of the calendar quarter.

Proposed Amendment

In recent years, other self-regulatory organizations (SROs) have simplified their FOCUS filing requirements by eliminating the FOCUS Part I filing requirement and modifying the requirements for filing FOCUS Part II reports. The NASD is proposing to modify its Plan to standardize its requirements with those of the other SROs and reduce the filing burden on NASD members. Those proposed Plan modifications would:

1. Eliminate the requirement for members to file monthly FOCUS Part I reports for all firms, and only require monthly filings of a modified FOCUS Part II report for certain firms that carry customer accounts and are subject to the reserve computation requirement of SEC Rule 15c3–3 or are classified as brokers or dealers under the net capital rule. The modified FOCUS Part II report would consist of a balance sheet, net capital computation, reserve formula computation, a one line profit and loss figure for the month and certain financial and operational data.

2. Require all firms to file a quarterly FOCUS Part II or IIA Report, as currently required.

Under this proposed change, approximately two thousand (2,000) firms who operate on a fully disclosed basis would no longer have to file a monthly FOCUS Part I Report, and the firms that must file monthly will have a simplified filing requirement. The NASD would, however, continue to have the right under SEC Rule 17a–5(a)(2)(iv) to require financial and operational information to be submitted more frequently when conditions or events so warrant.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[2] in that the amended Plan will foster cooperation with other regulators by making the FOCUS filing requirements consistent for all registered broker/dealers and reduce the regulatory burdens on broker/dealers consistent with the purposes of the Act.

The NASD believes that the Plan as amended will comply with the requirements of SEC Rule 17a–5(a)(4) because the FOCUS Part II Reports required to be filed under the Plan will provide the Association with the information currently provided in the FOCUS Report Part I.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD has requested that the Plan be effective upon Commission approval for all members, except members subject to the requirements of SEC Rule 15c3–3 or members engaged in market making activity for whom the Plan will be effective for the month ending July 31, 1996. In addition, the NASD has requested that the Commission find good cause pursuant to Section 19(b)(2) for approving the proposed rule change prior to the 30th day after publication in the Federal Register.

IV. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A and the rules and regulations thereunder. The Commission believes that the Plan as amended will comply with the requirements of SEC Rule 17a–5(a)(4) in that the FOCUS Part II Reports required to be filed under the Plan will provide the Association with the information currently provided in the FOCUS Report Part I.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of

[1] SEC Rule 15c3–3 is the SEC's Customer Protection-Reserves and Custody of Securities rule. Subsection (e) requires certain broker/dealers holding customer securities or funds to establish a ''Special Reserve Account for the Exclusive Benefit of Customers'' according to a formula specified in the rule.

[2] 15 U.S.C. § 78*o*–3.

publication of notice of filing thereof in that the proposed amendments to the Association's FOCUS Filing Plan submitted herewith are designed to bring the NASD's filing requirements into line with those of other SROs, will facilitate member compliance with financial information filing obligations and reduce regulatory burdens. In addition, because the first FOCUS filings are due in early February 1996, accelerating approval of the proposed rule change will benefit NASD members by permitting them to avoid the significant burden of filing monthly reports and more cumbersome current FOCUS Form II reports.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–96–03 and should be submitted by February 22, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2056 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36771; File No. SR–NSCC–96–02]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating To Fees and Charges

January 25, 1996.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''), notice is hereby given that on January 5, 1996, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and II below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change revises NSCC's New York Window Service Fee Schedule which is attached as Exhibit 1.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to reduce two existing service fees and introduce three new service fees in connection with NSCC's New York Window Service. The revisions to the New York Window Service fee schedule are being made as a result of the increase in usage of the New York Window Service. A sliding scale for over-the-window receives and deliveries is being introduced whereby high volume users will realize economies of scale based upon usage. Custody fees are being reduced to allow users that have significant physical inventory with the New York Window to realize an economic benefit from outsourcing their vault functions. Fees for branch receives, The Depository Trust Company receives and deliveries, and internal triparty receives and deliveries are being introduced. These new fees became effective for transactions as of January 1, 1996.

The proposed rule change is consistent with the requirements of Section 17A of the Act[3] and the rules and regulations thereunder because it provides for the equitable allocation of dues, fees, and other charges among NSCC's participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)[4] of the Act and pursuant to Rule 19b–4(e)(2)[5] promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by NSCC. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] 15 U.S.C. 78q–1 (1988).

[4] 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

[5] 17 CFR 240.19b–4(e)(2) (1994).

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–96–02 and should be submitted by February 22, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

Exhibit 1—Modifications to Addendum A to NSCC's Rules and Procedures [7]

IV. OTHER SERVICE FEES

* * * * *

R. NEW YORK WINDOW

1. Over the Window-Receives/Deliveries.	[$12.00 per item].
a. 1–50 daily	*$12.00 per item.*
b. 51–100 daily	*$10.00 per item.*
c. 101–and up daily	*$8.00 per item.*
2. Branch Receives:	
a. With SIC validation	*$3.50 per item.*
b. Without validation	*$2.50 per item.*
[2]*3.* Envelope Settlement Service/Receives:	
a. 1–100 daily	$6.00 per item.
b. 101–150 daily	$5.00 per item.
c. 151–and up daily	$4.00 per item.
[3]*4.* Envelope Settlement Services/Deliveries.	$6.00 per item.
[4]*5.* FOSS/DSS-Receives/Deliveries (Money Only).	$3.50 per item.
[5]*6.* Transfers	$15.00 per item.
[6]*7.* Reorganizations:	
a. One-Way	$15.00 per item.
b. Two-Way	$18.00 per item.
[7]*8.* Underwritings (Coordinating Distribution).	$35.00 per hour.
[8]*9.* Special Handling	$35.00 per hour.
[9]*10.* Custody (Per [Position Per Issue] *CUSIP*).	$[.10].*05* per day.
[10]*11.* Return to Firm (Securities).	$.10 per item.
[11]*12.* Internal Cross-Receives/Deliveries.	$7.00 per item.
[12]*13.* Messenger Service (Accommodation).	$7.50 per hour.
[13]*14.* Accomodation Handling.	$3.50 per item.
15. DTC Receives/Deliveries.	*$3.00 per item.*
16. Internal Tri-Party-Receives/Deliveries.	*$7.00 per transaction plus 1.00 per security.*
[14]*17.* Settlement Reconciliation.	$25.00 per day.

* * * * *

[7] Additions to the text are denoted by italics, deleted text is bracketed.

[FR Doc. 96–2014 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 200.30–3(a)(12) (1994).

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Thursday, 15 February 1996.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. II§ 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: January 26, 1996.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–2006 Filed 1–31–96; 8:45 am]

BILLING CODE 5000–04–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36775; File No. SR–Phlx–95–93]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Increase the Number of Appointed Public Governors to Four, To Limit Appointed Public Governors to Two Consecutive Three-Year Terms, and To Eliminate From the Board of Governors the Ex-Officio Position Presently Held by the Immediate Past President of the Exchange

January 26, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 4, 1996, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to increase the number of Appointed Public Governors from three to four and also proposes a two term limit on all Appointed Public governors. Additionally, the Phlx proposes to eliminate one of the *ex-officio* offices of the Board of Governors. Finally, the Phlx proposes to delete the second paragraph of Article IV section

[1] 15 U.S.C. 78s(b)(1).

4–3 because it no longer provides any constructive use.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Article IV of the Phlx By-Laws presently provides for three Appointed Public Governors. These Governors presently serve three-year terms and have no term limits. The Phlx proposes to increase the number of Appointed Public Governors from three to four, while eliminating the *ex-officio* position presently held by the immediate past President of the Phlx.[3]

Additionally, the proposed amendment establishes term limits for Appointed Public Governors of no more than two consecutive three year terms (total of six consecutive years). The term limit provision makes Appointed Public Governors ineligible for further service in such capacity until an interval of at least one year passes.[4] By imposing term limits on the Appointed Public Governors, the Phlx hopes to promote diversity amongst the Appointed Public Governors. The Exchange believes this diversity will better serve the Exchange, its members, its member organizations, and investors.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b)(3) of the Act[5] because it provides in part that one or more directors shall be representative of issuers and investors and not associated with a member of the Exchange, broker, or dealer. The Exchange also believes the proposed rule change furthers the objectives of Section 6(b)(5)[6] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Competition

The Exchange believes the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not receive any written comments in response to Phlx Circular *95–193.*[7]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if its finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–95-93 and should be submitted by February 22, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2058 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[2] This paragraph currently provides that ''Notwithstanding the provisions of By-Law 4–1 and the first paragraph of this by-law, the classes whose terms expire in 1986, 1987 and 1988 shall remain as currently constituted until their terms expire.'' It was included in connection with the last amendment to this by-law to ensure a smooth transition of the Governors whose terms were scheduled to expire in 1986, 1987, and 1988. Telephone conversation between Murray L. Ross, Secretary, Phlx, and Anthony P. Pecora, Attorney, SEC (Jan. 22, 1996).

[3] The Commission notes, according to the proposal, that the fourth Appointed Public Governor's term would commence in 1996. Hence, one Appointed Public Governor would be selected every year, except in 1996 and every third year thereafter. In those years, two Appointed Public Governors would be selected.

[4] The Commission notes, in addition to the Appointed Public Governors, that the Exchange's Board of Governors would be composed of the offices of the Chairman of the Board, two Vice Chairmen of the Board, 9 On-Floor Governors, 9 Off-Floor Governors, 2 At-Large Governors, the President of the Exchange, and an *ex-officio* position held by the immediate past Chairman of the Board. The Chairman may serve in such office for two consecutive two-year terms, and the Vice Chairman may serve in such office for four consecutive one-year terms. After serving for such periods, these Governors are ineligible for further service in such office until an interval of at least one year passes. The immediate past Chairman may serve in such office for a one-year term. The 9 On-Floor Governors, the 9 Off-Floor Governors, the 3 At-Large Governors, and the President of the Exchange, however, are not subject to term limits. *See* Phlx By-Laws, Article IV, §§ 4–1 and 4–2.

[5] 15 U.S.C. 78f(b)(3).

[6] 15 U.S.C. 78f(b)(5).

[7] In accordance with Phlx By-Law Article XXII, § 22–2, this circular announced the current proposal to the Exchange's members.

[8] 17 C.F.R. 200.30–3(a) (12).

[Release No. 34–36776; File No. SR–Phlx–95–91]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Option Specialist Evaluations

January 26, 1996

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 22, 1996, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act,[1] proposes to update its Options Specialist Evaluation System by adopting a new questionnaire and revising Exchange Rules 509, 511 and 515 regarding the evaluation procedure.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Since at least 1978, the Exchange has been evaluating its options specialists based on the same questionnaire in use today. This quarterly survey is a series of subjective questions answered by floor brokers that have traded with the particular specialist over the last quarter. The purpose of this filing is to propose a new updated survey which requests information that the Exchange believes is more relevant to a specialist's performance in this day and age. The results of these evaluations are used by the Allocation, Evaluation and Securities Committee when making allocation and reallocation decisions regarding option specialist privileges.

The new survey has 15 all-new questions and will be answered by floor brokers who, Exchange records show, have traded at least a minimum number of contracts over the subject quarter.[2] Only specialist units (not individual specialists) will be graded as allocations are made to units, not individual specialists. The same questionnaire will be used for equity option specialists, index option specialists[3] and foreign currency option specialists. Each question must be answered by giving the unit a score of 1 through 9 (very poor to excellent) and any question that is answered with a score of less than 4 must be accompanied by a written explanation. Floor brokers who do not complete and return the surveys still will be subject to fines pursuant to Options Floor Procedure Advice C–8. An overall score of 5.00 or above on the survey continues to be considered acceptable and will not trigger a review by the Committee.

The proposed questionnaire covers a wide range of specialist responsibilities such as the degree of liquidity provided, the tightness of quotes, timeliness of quote updates, ability to fill small lot orders, timeliness of reports, ability to conduct opening rotations, maintenance of crowd control, and clerical staffing.

The process by which a specialist unit's scores will be reviewed and used as the basis of a reallocation proceeding is also being amended. Currently, there is a very complicated review system in place that the Exchange has determined needs to be simplified in order to be effective. An average score of below 5.00 for the whole survey still will trigger a review but the existing additional criteria of a score below 5.00 on three or more questions in a quarter or a score below 5.00 for one question in three consecutive quarters will be eliminated.

Under the proposed new procedure, if a unit receives an average score of below 5.00 on the whole questionnaire for two consecutive quarters, it will be deemed to have performed below minimum standards[4] and the head specialist will be required to appear before the Quality of Markets Subcommittee in order to discuss the reasons for such score and what can be done to improve the unit's performance.[5] If the specialist unit then receives an overall score below 5.00 for the next review period, the matter will be brought to the attention of the full Allocation, Evaluation & Securities Committee, which will institute proceedings to determine whether to remove or reallocate specialist privileges from that unit. Rules 511(c) and 515 will be amended to reflect this new review procedure. The hearing procedures set forth in Rule 511(e) will not change and decisions still will be subject to appeal to the Board of Governors, as provided for under Article XI, Section 11–1 of the Phlx By-Laws.

2. Statutory Basis

The proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5),[6] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions

[1] 17 CFR 249.19b–4.

[2] The number of contracts is variable based on the number of contracts traded in a particular quarter and may, for example, be 10 contracts.

[3] Currently, all of the specialist units that have been allocated index options are also equity option specialists; however, if a unit only traded index options, the survey would be equally applicable.

[4] Under the current procedure, a specialist unit that receives an average score under 5.00 in any one quarter would be deemed to have performed below minimum standards.

[5] The Quality of Markets Subcommittee was created in 1994 in order to conduct reviews for specialists subject to the enhanced parity splits provided for in Exchange Rule 1014. *See* Securities Exchange Act Release No. 34606 (August 28, 1994), 59 FR 45741 (September 2, 1994) (File No. SR–Phlx–94–12). Pursuant to Exchange Rule 509, it is a permanently standing subcommittee composed of a floor broker chairman (who must be a member of the Allocation, Evaluation & Securities Committee) and an equal number of specialists and market makers. Rule 509 will also be amended to reflect this new added responsibility of the Subcommittee.

[6] 15 U.S.C. 78f(b)(5).

should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–95–91 and should be submitted by February 22, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2060 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21710; 812–9932]

Cityfed Financial Corp.; Notice of Application

January 26, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Cityfed Financial Corp. (''Cityfed'').

RELEVANT ACT SECTIONS: Order requested under sections 6(c) and 6(e) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order that would exempt it from all provisions of the Act, except sections 9, 17(a) (modified as discussed herein), 17(d) (modified as discussed herein), 17(e), 17(f), 36 through 45, and 47 through 51 of the Act and the rules thereunder until the earlier of one year from the date of the requested order or such time as Cityfed would no longer be required to register as an investment company under the Act. The requested exemption would extend an exemption granted until February 28, 1996.

FILING DATE: The application was filed on December 21, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 20, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 4 Young's Way, P.O. Box 3126, Nantucket, MA 02584.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Senior Counsel, at (202) 942–0563, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Cityfed was a savings and loan holding company that conducted its savings and loan operations through its wholly-owned subsidiary, City Federal Savings Bank (''City Federal''). City Federal was the source of substantially all of Cityfed's revenues and income. As a result of substantial losses in its mortgage banking and real estate operations, City Federal was unable to meet its regulatory capital requirements. Accordingly, on December 7, 1989, the Office of Thrift Supervision (the ''OTS'') placed City Federal into receivership and appointed the Resolution Trust Corporation (the ''RTC'') as City Federal's receiver. City Federal's deposits and substantially all of its assets and liabilities were acquired by a newly created federal mutual savings bank, City Savings Bank, F.S.B. (''City Savings''). The OTS appointed the RTC as receiver of City Savings.

2. Once City Savings was placed into receivership, Cityfed no longer conducted savings and loan operations through any subsidiary and substantially all of its assets consisted of cash that has been invested in money market instruments with a maturity of one year or less and money market mutual funds. As of September 30, 1995, Cityfed held cash and securities of approximately $8.9 million. Because of Cityfed's asset composition, it may be an investment company under the Act. Rule 3a–2 under the Act provides a one-year safe harbor to issuers that meet the definition of an investment company but intend to engage in a business other than investing in securities. Because of various claims against Cityfed and certain Cityfed officers and directors, Cityfed could not acquire an operating company within the one year safe harbor. The expiration of the safe harbor period necessitated the filing of an application for exemption from all provisions of the Act, with certain exceptions. In 1995, Cityfed was granted an exemption from all provisions of the Act until February 28, 1996.[1]

3. While Cityfed's board of directors has considered from time to time whether to engage in an operating business, the board has determined not to engage in an operating business at the present time because of the claims filed against Cityfed, whose liability thereunder cannot be reasonably estimated and may exceed its assets.

4. On June 2, 1994, the OTS issued a Notice of Charges and Hearing for Cease and Desist Order to Direct Restitution and Other Appropriate Relief and Notice of Assessment of Civil Money Penalties (''Notice of Charges'') against Cityfed and certain current or former directors and, in some cases, officers of Cityfed and City Federal. The Notice of Charges requests that an order be entered by the Director of the OTS requiring Cityfed to make restitution, reimburse, indemnify or guarantee the OTS against loss in an amount not less than $118.4 million, which the OTS alleges represents the regulatory capital deficiency reported by City Federal in the fall of 1989. The Notice of Charges provides that a hearing will be held before an administrative law judge on the question of whether a final cease and desist order should be issued against Cityfed. As of the date of the filing of the application, no date has been set for such hearing. On November 30, 1995, the OTS issued an Amended Notice of Charges and Hearing for Cease and Desist Order to Direct Restitution and Other Appropriate Relief and Notice of Assessment of Civil Money Penalties (''Amended Notice of Charges'') that is identical to the Notice of Charges except that the Amended Notice of Charges includes a reference to a federal statutory provision not referred to in the Notice of Charges that the OTS asserts provides an additional basis for the issuance of a Cease and

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[1] *Cityfed Financial Corp.*, Investment Company Act Release Nos. 20877 (Feb 2, 1995) (notice) and 20929 (Feb. 28, 1995) (order).

Desist Order against Cityfed and certain current or former directors and, in some cases, officers of Cityfed and of Cityfed's former subsidiary (''Respondents'').

5. Also on June 2, 1994, the OTS issued a Temporary Order to Cease and Desist (''Temporary Order'') against Cityfed. The Temporary Order required Cityfed to post $9.0 million as security for the payment of the amount sought by the OTS in its Notice of Charges. Cityfed unsuccessfully petitioned the district court for an injunction against the Temporary Order. Cityfed and the Respondents filed notices of appeal from the D.C. Court's Order to the United States Court of Appeals for the District of Columbia Circuit (''D.C. Circuit''), and the Respondents filed a motion in the D.C. Circuit for an expedited appeal and an order enjoining the enforcement of the Temporary Order during the pendency of the appeal. The D.C. Circuit denied the Respondents' motion for injunction on October 21, 1994. On July 11, 1995, the D.C. Circuit affirmed the denial by the D.C. Court of the motions by Cityfed and the Respondents for a temporary restraining order and an injunction against the Temporary Order. On October 26, 1994, Cityfed and the OTS entered into an Escrow Agreement (''Escrow Agreement'') with CoreStates Bank, N.A. (''CoreStates'') pursuant to which Cityfed transferred substantially all of its assets to CoreStates for deposit into an escrow account to be maintained by CoreStates. Cityfed's assets in the escrow account continue to be invested in money market instruments with a maturity of one year or less and money market mutual funds. Withdrawals or disbursements from the escrow account are not permitted without the written authorization of the OTS, other than for (a) monthly transfers to Cityfed in the amount of $15,000 for operating expenses, (b) the disbursement of funds on account of purchases of securities by Cityfed, and (c) the payment of the escrow fee and expenses to CoreStates. The Escrow Agreement also provides that CoreStates will restrict the escrow account in such a manner as to implement the terms of the Escrow Agreement and to prevent a change in status or function of the escrow account unless authorized by Cityfed and the OTS in writing.

6. On December 7, 1992, the RTC filed suit against Cityfed and two former officers of City Federal seeking damages of $12 million dollars for failure to maintain the net worth of City Federal (''First RTC Action''). In light of the filing by the OTS of the Notice of Charges on June 2, 1994, the RTC and Cityfed agreed to dismiss without prejudice the RTC's claim against Cityfed in the First RTC Action.

7. In addition, the RTC filed suit against several former directors and officers of City Federal alleging gross negligence and breach of fiduciary duty with respect to certain loans (''Second RTC Action''). The RTC seeks in excess of $200 million in damages. Under Cityfed's bylaws, Cityfed may be obligated to indemnify these former officers and directors and advance their legal expenses. Cityfed generally has agreed to advance expenses in connection with these requests. Because of the Temporary Order and the Escrow Agreement, however, Cityfed is not continuing to advance expenses in connection with these requests. Cityfed is unable to determine with any accuracy the extent of its liability with respect to these indemnification claims, although the amount may be material.

8. On August 7, 1995, Cityfed, acting in its own right and as shareholder of City Federal, filed a civil action in the United States Court of Federal Claims seeking damages for loss of ''supervisory goodwill.'' Cityfed's goodwill suit is presently stayed (as are all Court Federal Claims supervisory goodwill cases) pending possible Supreme Court review of the recent decision of the United States Court of Appeals for the Federal Circuit in another supervisory goodwill case, *Winstar Corp. v. United States,* 64 F.3d 1531 (Fed. Cir. 1995).

9. Currently, Cityfed's stock is traded sporadically in the over-the-counter market. Cityfed has one employee who is president, chief executive officer, and treasurer. Cityfed's secretary does not receive any compensation for her service. If Cityfed is unable to resolve the above claims successfully, Cityfed may seek protection from the bankruptcy courts or liquidate. Cityfed asserts that it probably will not be in a position to determine what course of action to pursue until most, if not all, of its contingent liabilities are resolved.

10. During the term of the proposed exemption, Cityfed will comply with sections, 9, 17(a), 17(d), 17(e), 17(f), 36 through 45, and 47 through 51 of the Act and the rules thereunder, subject to the following modifications. With respect to section 17(d), Cityfed represents that it established a stock option plan when it was an operating company. Although the plan has been terminated, certain former employees of City Federal have existing rights under the plan. Cityfed believes that the plan may be deemed a joint enterprise or other joint arrangement or profit-sharing plan within the meaning of section 17(d) and rule 17d–1 thereunder. Because the plan was adopted when Cityfed was an operating company and to the extent there are existing rights under the plan, Cityfed seeks an exemption to the extent necessary from section 17(d). In addition, Cityfed may become subject to the jurisdiction of a bankruptcy court. With respect to transactions approved by the bankruptcy court, applicant requests an exemption from sections 17(a) and 17(d) as further described in condition 3 below.

Applicant's Legal Analysis

1. Section 3(a)(1) defines an investment company as any issuer of a security who ''is or holds itself out as being engaged primarily * * * in the business of investing, reinvesting or trading in securities.'' Section 3(a)(3) further defines an investment company as an issuer who is engaged in the business of investing in securities that have a value in excess of 40% of the issuer's total assets (excluding government securities and cash). Cityfed acknowledges that it may be deemed to fall within one of the Act's definitions of an investment company. Accordingly, applicant requests an exemption under sections 6(c) and 6(e) from all provisions of the Act, subject to certain exceptions.

2. In determining whether to grant an exemption for a transient investment company, the SEC considers such factors as whether the failure of the company to become primarily engaged in a non-investment business or excepted business or liquidate within one year was due to factors beyond its control; whether the company's officers and employees during that period tried, in good faith, to effect the company's investment of its assets in a non-investment business or excepted business or to cause the liquidation of the company; and whether the company invested in securities solely to preserve the value of its assets. Cityfed believes that it meets these criteria.

3. Cityfed believes that its failure to become primarily engaged in a non-investment business by February 28, 1996 is due to factors beyond its control. Because of outstanding and potential claims against Cityfed and certain of its officers and directors, Cityfed cannot acquire an operating company. Cityfed has diligently pursued its claims against others and has taken steps to determine the extent of its contingent liabilities. Since the filing of its initial application for exemptive relief under sections 6(c) and 6(e) on October 19, 1990, Cityfed has invested in money market instruments and money market mutual funds solely to preserve the value of its assets.

4. Cityfed requests an order that would exempt it from all provisions of the Act, subject to certain exemptions, until the earlier of one year from the date of any order issued on this application or such time as Cityfed would no longer be required to register as an investment company under the Act.

Applicant's Conditions

Cityfed agrees that the requested exemption will be subject to the following conditions, each of which will apply to Cityfed from the date of the order until it no longer meets the definition of an investment company or during the period of time it is exempt from registration under the Act:

1. Cityfed will not purchase or otherwise acquire any additional securities other than securities that are rated investment grade or higher by a nationally recognized statistical rating organization or, if unrated, deemed to be of comparable quality under guidelines approved by Cityfed's board of directors, subject to two exceptions:

a. Cityfed may make an equity investment in issuers that are not investment companies as defined in section 3(a) of the Act (including issuers that are not investment companies because they are covered by a specific exclusion from the definition of investment company under section 3(c) of the Act other than section 3(c)(1)) in connection with the possible acquisition of an operating business as evidenced by a resolution approved by Cityfed's board of directors; and

b. Cityfed may invest in one or more money market mutual funds that limit their investments to ''Eligible Securities'' within the meaning of rule 2a-7(a)(5) promulgated under the Act.

2. Cityfed's Form 10–KSB, Form 10–QSB and annual reports to shareholders will state that an exemptive order has been granted pursuant to sections 6(c) and 6(e) of the Act and that Cityfed and other persons, in their transactions and relations with Cityfed, are subject to sections 9, 17(a), 17(d), 17(e), 17(f), 36 through 45, and 47 through 51 of the Act, and the rules thereunder, as if Cityfed were a registered investment company, except insofar as permitted by the order requested hereby.

3. Notwithstanding sections 17(a) and 17(d) of the Act, an affiliated person (as defined in section 2(a)(3) of the Act) of Cityfed may engage in a transaction that otherwise would be prohibited by these sections with Cityfed:

(a) If such proposed transaction is first approved by a bankruptcy court on the basis that (i) the terms thereof including the consideration to be paid or received, are reasonable and fair to Cityfed, and (ii) the participation of Cityfed in the proposed transaction will not be on a basis less advantageous to Cityfed han that of other participants; and

(b) In connection with each such transaction, Cityfed shall inform the bankruptcy court of: (i) The identity of all of its affiliated persons who are parties to, or have a direct or indirect financial interest in, the transaction; (ii) the nature of the alliliation; and (iii) the financial interests of such persons in the transaction.

For the SEC, by the Division of Investment Management, under delegate authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2054 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21711; 811–2953]

John Hancock Cash Management Fund; Notice of Application

January 26, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: John Hancock Cash Management Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 10, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 20, 1996 and should be accompanied by proof of service on the applicant, in the form of an affidivat or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, c/o Anne C. Hodsdon, 101 Huntington Avenue, Boston, MA 02199–7603.

FOR FURTHER INFORMATION CONTACT: Robert Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end management investment company organized as a Massachusetts business trust. On August 24, 1979, applicant filed a notice of registration pursuant to section 8(b) of the Act on Form N–8A. Applicant registered an unlimited number of shares by a registration statement on Form N–1A under the Securities Act of 1933. The registration statement became effective on October 26, 1979, and the initial public offering commenced as soon as practicable thereafter.

2. On August 28, 1995, applicant's board of trustees, including a majority of trustees who were not interested persons of the applicant, approved an Agreement and Plan of Reorganization (the ''Plan''). The Plan provided that applicant would transfer all of its assets and liabilities to John Hancock Money Market Fund (''Money Market Fund'').

3. Applicant and the Money Market Fund may be deemed to be affiliated persons of each other by reasons of having a common investment adviser, common directors, and common officers. In compliance with rule 17a-8, which governs mergers of certain affiliated investment companies, applicant's trustees determined that the reorganization was in the best interests of applicant and the interests of applicant's existing shareholders would not be diluted.[1]

4. Applicant filed its preliminary proxy materials as part of Series, Inc's registration statement on Form N–14 with the SEC on September 7, 1995 and filed definitive copies of its proxy materials on October 12, 1995. Applicant's shareholders approved the Plan at a meeting held on November 15, 1995.

5. On November 17, 1995, the reorganization was consummated. Applicant transferred all of its assets and liabilities to the Money Market Fund in exchange for shares of the Money Market Fund with an aggregate

[1] Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a-8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

net asset value equal to the net asset value of applicant's assets transferred. Specifically, in exchange for $241,651,168 of assets transferred, the Money Market Fund issued 241,738,168 Class A shares of common stock.

6. The expenses applicable to the reorganization, consisting of accounting, printing, administrative and certain legal expenses, are estimated to be approximately $120,000. Applicant and the Money Market Fund each assumed its own expenses related to the reorganization. Applicant's share of the expenses were approximately $57,500.

7. At the time of filing the application, applicant had no assets, outstanding debts or liabilities. Applicant has no shareholders and is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2053 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21709; International Series Release No. 922; File No. 812–9656]

PNC Bank, N.A. and PFPC Trustee & Custodial Services Ltd; Notice of Application

January 26, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: PNC Bank, N.A. (''PNC'') and PFPC Trustee & Custodial Services (''PFPC'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from section 17(f) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit PFPC, a subsidiary of PNC, to act as custodian for certain investment companies' foreign assets in Ireland. The order further would permit PFPC to act as primary custodian for all assets of such investment companies and to delegate to PNC all duties and obligations relating to the custody of the investment companies' U.S. assets.

FILING DATE: The application was filed on July 7, 1995 and amended on November 29, 1995. Applicants have agreed to file an amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 20, 1996 by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, PNC Bank, N.A., Land Title Building, Broad & Chestnut Streets, Philadelphia, Pennsylvania 19110, Attn: Gary M. Gardner, Esq.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. PNC is a national banking association organized and existing under the laws of the United States, and is regulated by the Comptroller of the Currency under the National Bank Act. As of December 31, 1994, PNC had aggregate capital, surplus and undivided profits exceeding $3.2 billion. PNC is a wholly-owned indirect subsidiary of PNC Bank Corp., a bank holding company organized under the laws of Pennsylvania and regulated under the Bank Holding Company Act of 1956. PNC provides custodial and other services to registered investment companies, offshore funds, investment advisers, pension funds, other financial institutions, and individuals.

2. PFPC is a wholly-owned indirect subsidiary of PNC. PFPC is a limited purpose corporation supervised by the Central Bank of Ireland under several Irish laws, including the Companies Act 1990, the Unit Trust Act 1990, and the Investment Limited Partnership Act. PFPC was organized in Ireland to provide custody services for PNC's U.S. investment company customers.

3. Applicants request an order exempting PNC, PFPC, any management investment company registered under the Act other than an investment company registered under section 7(d) of the Act (a ''U.S. Investment Company''), and any custodian for a U.S. Investment Company, from the provisions of section 17(f) of the Act to the extent necessary to permit: (a) PNC (as custodian or subcustodian for U.S. Investment Companies) or a U.S. Investment Company to deposit, or cause or permit the U.S. Investment Company to deposit, its Foreign Securities, cash, and cash equivalents (''Foreign Assets'') with PFPC, as delegate for PNC; (b) PFPC (as custodian or subcustodian) to receive and hold the Foreign Assets of a U.S. Investment Company directly from such U.S. Investment Company, its custodian or subcustodian (other than PNC); or (c) PFPC, upon request by a U.S. Investment Company, to act as primary custodian for all assets of investment companies and to delegate to PNC all duties and obligations relating to the custody of the U.S. Investment Company's U.S. Assets. As used herein, the term ''Foreign Securities'' includes (i) securities issued and sold primarily outside the U.S. by a foreign government, a national or any foreign country, or a corporation or other organization incorporated or organized under the laws of any foreign country; and (ii) securities issued or guaranteed by the U.S. Government or by any state or any political subdivision or any agency thereof or by any entity organized under the law of the U.S. or any state thereof which have been issued and sold primarily outside the U.S. The term ''U.S. Assets'' includes securities, cash and cash equivalents other than Foreign Assets.

4. PFPC would provide custody services required in Ireland as delegate for PNC, when PNC acts as custodian or subcustodian for a U.S. Investment Company, or directly, as custodian or subcustodian for a U.S. Investment Company for the investment company's Foreign Assets. In addition, if requested by a U.S. Investment Company, PFPC would act as primary custodian for that company's assets and delegate to PNC all custody services to be provided to the company with respect to the U.S. Assets. In each case, PNC will assume liability for any loss caused by PFPC. Thus, there will be no difference in the nature or extent of PNC's liability based on whether such services are provided by PFPC directly or as PNC's delegate.

5. PFPC proposes to act as primary custodian for assets of a U.S. Investment Company to accommodate certain

master/feeder arrangements. Applicants state that, under the master/feeder investment structure, investment management and custodial activities are performed at the master portfolio level, and marketing, distribution, and shareholder servicing functions are performed at the feeder fund level. Under these master/feeder arrangements, the master portfolio is a registered investment company, and feeder funds may consist of registered and unregistered foreign and domestic entities.

6. Applicants represent that the Central Bank of Ireland has stated that it may be more willing to grant regulatory approval of Irish feeder fund investments in U.S. master funds if primary custody of the master fund's assets is maintained in Ireland so that the Central Bank can monitor the safekeeping of the master fund's assets. Applicants contend that, by utilizing PFPC to maintain primary custody of a master fund's assets, the fund's sponsor can provide Irish regulators with the ability to monitor custodial procedures affecting the interest of Irish feeder funds. Applicants assert that, because PNC will (a) supervise all aspects of PFPC's custody arrangements with U.S. Investment Companies; (b) assume direct responsibility for maintaining custody of U.S. Assets in the U.S.; and (c) be liable for any loss arising out of or in connection with PFPC's performance or custodial responsibilities, there is greater assurance that custodial services will be provided in accordance with U.S. standards, and U.S. regulators will have jurisdiction over the custodial arrangements.

Applicants' Legal Conclusions

1. Section 17(f) of the Act requires every registered management investment company to place and maintain its securities and similar investments in the custody of certain entities, including ''banks'' having aggregate capital, surplus and undivided profits of at least $500,000. A ''bank,'' as defined in section 2(a)(5) of the Act includes (a) a banking institution organized under the laws of the U.S.; (b) a member of the Federal Reserve System; and (c) any other banking institution or trust company doing business under the laws of any state or of the U.S., and meeting certain requirements. Therefore, the only entities located outside the U.S. which section 17(f) authorizes to serve as custodians for registered management investment companies are the overseas branches of U.S. banks.

2. Rule 17f–5 under the Act expands the group of entities that are permitted to serve as foreign custodians. Rule 17f–5(c)(2)(ii) defines the term '' Eligible Foreign Custodian'' to include a majority-owned direct or indirect subsidiary of a qualified U.S. bank or bank-holding company that is incorporated or organized under the laws of a country other than the U.S. and that has shareholders' equity in excess of $100 million. Rule 17f–5(c)(3) defines the term ''Qualified U.S. Bank'' to include a banking institution organized under the laws of the U.S. that has an aggregate capital, surplus and undivided profit of not less than $500,000. PNC meets the definition of a Qualified U.S. Bank.

3. While PFPC satisfies the requirements of rule 17f–5 insofar as it is a wholly-owned indirect subsidiary of PNC Bank Corp. and is incorporated under the laws of Ireland, it does not meet the rule's $100 million minimum shareholders' equity requirement. Accordingly, PFPC does not qualify as an Eligible Foreign Custodian under rule 17f–5 and, absent exemptive relief, could not serve as custodian for the Foreign Assets of U.S. Investment Companies.

4. Applicants assert that PNC's U.S. Investment Company customers currently must incur the inconvenience of using the services of a custodian other than PNC to maintain custody of their Foreign Assets in Ireland. Applicants contend that those customers who keep a single custody account with PNC suffer the inconvenience and expense associated with moving Foreign Securities away from their primary market or foregoing effecting transactions in the particular securities market. However, PNC's U.S. Investment Company customers would not be forced to choose between such inconveniences if they and PNC were permitted access to PFPC's custody services.

5. Applicants also assert that the requested order would facilitate Irish feeder fund investments in U.S. master funds. Applicants believe that certain U.S. Investment Companies that invest in Irish Foreign Securities may wish to obtain the benefit of PNC's consolidated custody services while using PFPC's services as primary custodian. Such an arrangement would allow customers whose holdings are principally Foreign Securities the advantage of having one custodian handle all custody issues and of having a single custody account and account statement. Under a custody arrangement in which PFPC is primary custodian for a U.S. Investment Company's Assets and PNC acts as subcustodian for the U.S. Assets, the U.S. Assets would have the same protection as if held directly by PNC, and PNC would remain fully liable to the U.S. Investment Companies to the same extent as if it provided custody services to such companies directly.

6. Applicants represent that the protection afforded the assets of U.S. Investment Companies held by PFPC would not be diminished from the protection afforded by rule 17f–5. PNC will maintain records reflecting the ownership of the assets held by PFPC as primary or subcustodian for U.S. Investment Companies, and these records will identify each security held by each U.S. Investment Company. PFPC will also maintain its own records. All movements of money effected through PFPC and all assets held by PFPC will be monitored, recorded, and tested by PNC. Accordingly, when PFPC, in its capacity as primary custodian, receives instructions relating to the disposition of the assets of a U.S. Investment Company, PNC will be provided the same information contemporaneously. Moreover, all transactions effected through PFPC as primary or sub-custodian will be done on a payment versus delivery basis.

7. Internal compliance personnel presently employed by PNC or its affiliates will advise PFPC on establishing procedures and controls. Thus, applicants represent that safeguards substantially equal to those provided by PNC's U.S. operations will be in place and that PFPC will provide uniform procedures for custody administration.

8. Applicants assert that PNC's role as supervisor addresses the custodian specific risks to U.S. Investment Company Assets identified by rule 17f–5. PNC will assure that safeguards consistent with U.S. standards will be employed to maintain the safety of U.S. Investment Company Assets held by PFPC. Moreover, because a U.S. Investment Company may pursue a claim for recovery against PNC in the event of a loss caused by PFPC, regardless of whether PFPC acts as PNC's delegate or as direct custodian or primary custodian, U.S. jurisdiction over claims of U.S. Investment Companies is assured.

9. Applicants believe that permitting U.S. Investment Companies access to PFPC's custody services as subcustodian, direct custodian, or primary custodian will allow those companies to obtain the same quality of services for both their Foreign Securities and their U.S. securities, and at the same time will give PFPC's U.S.

Investment Company customers the greatest flexibility and convenience in custody arrangements.

10. Section 6(c) of the Act provides, in relevant part, that the SEC may exempt any person or class of persons from any provision of the Act or from any rule thereunder, if such exemption is necessary or appropriate in the public interest, consistent with the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the Act. Applicants believe the requested order satisfies this standard.

Conditions

Applicants agree that any order of the SEC granting the requested relief may be conditioned upon the following:

1. The foreign custody arrangement proposed regarding PFPC will satisfy the requirements of rule 17f–5 in all respects other than PFPC's level of shareholders' equity, except to the extent that relief may be needed for PFPC to act as primary custodian for U.S. Investment Companies under the specific terms provided in the application.

2. PNC, any U.S. Investment Company, and any custodian for a U.S. Investment Company, will deposit Foreign Assets with PFPC only in accordance with an agreement (the ''Agreement'') required to remain in effect at all times during which PFPC fails to satisfy the requirements of rule 17f–5 (and during which such Foreign Assets remain deposited with PFPC). Each Agreement will be a three-party agreement among PNC, PFPC and the U.S. Investment Company or the custodian for a U.S. Investment Company pursuant to which PNC or PFPC, as the case may be, will undertake to provide specified custody services. If PNC is acting as a custodian for the U.S. Investment Company, the Agreement will authorize PNC to delegate to PFPC such of the duties and obligations of PNC as will be necessary to permit PFPC to hold in custody the U.S. Investment Company's Foreign Assets. If PNC is not acting as a custodian for the U.S. Investment Company, the Agreement will authorize PFPC to provide custody services directly, and no delegation from PNC to PFPC will be necessary. In each case, the Agreement will provide that PNC will be liable fore any loss, damage, cost, expense, liability, or claim arising out of or in connection with the performance by PFPC of its responsibilities under the Agreement to the same extent as if PNC had itself been required to provide custody services under the Agreement. Further, the Agreement will specifically provide that, in the event of loss, a U.S. Investment Company may pursue a claim for recovery against PNC, regardless of whether PFPC acted as PNC's delegate or as direct custodian or subcustodian.

3. PFPC will act as primary custodian for a U.S. Investment Company's Assets only in accordance with a supplement or addendum to the Agreement (the ''Supplemental Agreement''), which would be required to remain in effect at all times, regardless of whether PFPC satisfies the requirements of rule 17f–5. PFPC will act as primary custodian for a U.S. Investment Company's Assets only if PFPC is also custodian for the Company's Foreign Assets. The Supplemental Agreement will provide that PFPC will delegate to PNC all of the duties and obligations of PFPC necessary to permit PNC to provide full and complete custody services with respect to the U.S. Investment Company's U.S. Assets. PNC will remain directly liable to the U.S. Investment Company under the Agreement, for any loss, damage, cost, expense, liability or claim arising out of or in connection with the performance of PFPC of its responsibilities under the Agreement, including the Supplemental Agreement.

4. PNC currently satisfies and will continue to satisfy the Qualified U.S. Bank requirement set forth in rule 17f–5(c)(3).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2061 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26464]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

January 26, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 20, 1996, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Allegheny Power System, Inc., et al. (70–7888)

Allegheny Power System, Inc. (''Allegheny''), Tower Forty Nine, 12 East 49th Street, New York, New York 10017, a registered holding company, Allegheny Power Service Corporation (''APSC''), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, Allegheny's service company subsidiary, three electric utility subsidiary companies of Allegheny—(i) Monongahela Power Company (''Monongahela''), 1310 Fairmont Avenue, Fairmont, West Virginia 26554, (ii) The Potomac Edison Company (''Potomac Edison''), 10435 Downsville Pike, Hagerstown, Maryland 21740, and (iii) West Penn Power Company (''West Penn''), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, and Allegheny Generating Company (''AGC''), Tower Forty Nine, 12 East 49th Street, New York, New York 10017, an electric public utility subsidiary of Monongahela, Potomac Edison and West Penn (collectively, ''Applicants'') have filed a post-effective amendment to their application-declaration filed under sections 6(a), 7, 9(a), 10 and 12(b) and rules 45, 53 and 54 thereunder.

By order dated November 28, 1995 (HCAR No. 26418) (''November 1995 Order''), Applicants were authorized to engage in the following transactions from December 31, 1995 to December 31, 1997: (i) Issuance of promissory notes for short-term bank borrowing by Allegheny, Potomac Edison, Monongahela, West Penn and AGC; (ii) issuance and sale of commercial paper by Allegheny, Monongahela, Potomac Edison, West Penn and AGC; (iii) entry into a revolving credit facility by AGC and the issuance of notes to evidence borrowing thereunder; (iv) guarantees

by Monongahela, Potomac Edison and West Penn of the amounts that AGC borrows under a revolving credit agreement; and (v) operation of a system money pool by Allegheny, APSC, Monongahela, Potomac Edison, West Penn and AGC. In addition, the November 1995 Order provided that the issuance of short-term debt would not exceed the following aggregate amounts outstanding at any one time for each of the following Applicants: Allegheny—$165 million; Monongahela—$100 million; Potomac Edison—$115 million; West Penn—$170 million; AGC—$75 million.

Allegheny now proposes that the aggregate limit on its short-term debt financing be increased from $165 million to $400 million, subject to the same terms and conditions outlined in the November 1995 Order.

Eastern Utilities Associates (70–8769)

Eastern Utilities Associates (''EUA''), P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, has filed an application-declaration under sections 6, 7, 9(a), 10, 12(b), 12(f) and 13(b) of the Act and rules 45, 52, 54, 90 and 91 thereunder.

EUA proposes to acquire an interest in a new subsidiary, EUA Energy Services, Inc. (''Energy Services''), which has a 30% ownership interest in Duke/Louis Dreyfus (New England) LLC (''LLC''), a limited liability company formed to provide energy services to customers in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. The remaining interest in LLC is owned by Duke/Louis Dreyfus LLC, a Nevada limited liability company.

LLC's business includes buying, selling and brokering electric power and fuel, and providing engineering, consulting, financing, leasing, operations and maintenance services with respect to equipment for the production of electricity and steam, efficiency services and processes and equipment retrofit. LLC will initially conduct its power marketing activities in wholesale energy markets in its territory, and will sell energy to wholesale and retail customers to the extent permitted without becoming an ''electric utility company'' or ''gas utility company'' under the Act.

EUA states that LLC will use options, puts, futures and other similar transactions to offset the price risk of a purchase or sale of energy or energy products. LLC may also acquire or lease generating facilities in the future, if such acquisition would not subject it to regulation as an electric utility subsidiary of EUA under the Act.

EUA seeks authorization (1) for LLC and the companies in the EUA system, other than the utility subsidiaries and EUA Service Corporation, to provide goods or services to each other at market prices or on terms no less favorable than those that would result from armslength bargaining, and (2) for LLC on the one hand and EUA Service Corporation and the utility subsidiaries on the other to provide goods or services to each other, in each case pursuant to an exception from the requirements of section 13(b) and rules 90 and 91 thereunder.

To effect the acquisition of an interest in LLC's business and related transactions, authorization is sought, through the period ending December 31, 2000: (1) For EUA to acquire 100 shares of common stock, $.01 par value, of Energy Services, for a purchase price of $1000; (2) to the extent not exempt from the requirement of prior Commission approval, for EUA to make capital contributions, open account advances and/or short term loans bearing interest at EUA's effective cost of borrowing to, and purchase additional shares of capital stock from, Energy Services, from time to time, in an aggregate amount not to exceed $3 million (''Investments''); (3) for EUA to provide credit support for Energy Services and/or LLC, from time to time, in an aggregate amount that, together with the Investments, will not exceed $15 million; (4) to the extent not exempt from the requirement of prior Commission approval, for Energy Services to issue securities to EUA in connection with the Investments; (5) to the extent not exempt from the requirement of prior Commission approval, for Energy Services to make investments in and provide credit support to LLC, from time to time, without limitation as to amount, on such terms as are appropriate on the basis of market conditions; (6) to the extent not exempt from the requirement of prior Commission approval, for LLC to issue securities to Energy Services to evidence its investments in LLC; and (7) for EUA to issue and sell short-term notes to banks from time to time in aggregate amounts at any one time outstanding not to exceed $15 million.

EUA's short-term borrowings from banks will be made pursuant to informal credit line arrangements; will be evidenced by notes that will mature no more than one year from the date of issuance and, in any event, no later than September 30, 2001; will bear interest at a floating prime rate or at fixed money market rates; will be prepayable without premium only if they bear a floating interest rate; and will be subject in some cases to commitment fees.

Louisiana Power & Light Company (70–8771)

Louisiana Power & Light Company (''LP&L''), 639 Loyola Avenue, New Orleans, Louisiana 70113, an electric utility subsidiary company of Entergy Corporation (''Entergy''), a registered holding company, has filed a declaration pursuant to sections 6(a) and 7 of the Act.

LP&L proposes to cause the issuance and sale of up to $326 million in secured lease obligation bonds (''Refunding Bonds''), in one or more series through December 31, 1997, in order to redeem approximately $310 million in previously issued and sold secured lease obligation bonds (''Original Bonds'').

By orders dated September 26, 1989 (HCAR No. 24956) and September 27, 1989 (HCAR No. 24958) (''Original Orders''), LP&L sold to and leased back from three separate trusts (''Lessors''), for the benefit of an owner participant (''Owner Participant''), on a long-term net lease basis pursuant to three separate facility leases (''Leases''), an approximately 9.3% aggregate ownership interest (''Undivided Interests'') in Unit No. 3 of the Waterford nuclear power plant (''Waterford 3'') in three almost identical but separate transactions. The First National Bank of Commerce (''Owner Trustee'') is the trustee for these trusts. LP&L now has an approximately 90.7% undivided ownership interest and an approximately 9.3% leasehold interest in Waterford 3.

The purchase price of the Undivided Interests was $353.6 million. About $43,603,000 was provided through equity contributions of the Owner Participant in each of the three Lessor trusts. About $309,997,000 was provided through issuance of the Original Bonds by the Owner Trustee in an underwritten public offering. The Original Bonds consist of three separate series of secured lease obligation bonds, with an annual interest rate of 10.30%, to mature on January 2, 2005, issued in an aggregate principal amount of $140,452,000 (''2005 Bonds''), and three separate series of secured lease obligation bonds, with an annual interest rate of 10.67%, to mature to January 2,1 2017, issued in an aggregate principal amount of $169,545,000 (''2017 Bonds'').

LP&L now proposes to have the Owner Trustee issue the Refunding Bonds either under three amended and supplemented Indentures of Mortgage and Deeds of Trust dated September 1, 1989 or under comparable instruments

(''Indentures''). The proceeds from the sale of the Refunding Bonds, together with any funds provided by LP&L and/or the Owner Participant, will be applied to the cost of redeeming the Original Bonds. Additionally, these funds may be applied to pay a portion of the transaction expenses incurred in issuing the Refunding Bonds and a portion of the premium on the Original Bonds. The 2005 Bonds were first optionally redeemable on July 2, 1994 and are currently redeemable at 104.120% of their principal amount. The 2017 Bonds were first optionally redeemable on July 2, 1994 and are currently redeemable at 107.469% of their principal amount.

Each series of Refunding Bonds will have such interest rate, maturity date, redemption and sinking fund provisions, be secured by such means, be sold in such manner and at such price and have such other terms and conditions as shall be determined through negotiation at the time of sale or when the agreement to sell is entered into, as the case may be. No series of Refunding Bonds will be issued at rates in excess of those rates generally obtainable at the time of pricing for sales of bonds having the same or reasonably similar maturities, issued by companies of the same or reasonably comparable credit quality and having reasonably similar terms, conditions and features. Each series of Refunding Bonds will mature not later July 2, 2017. The Refunding Bonds will be structured and issued under the documents and pursuant to the procedures applicable to the issuance of the Original Bonds, or comparable documents having similar terms and provisions.

LP&L is obligated to make payments under the Leases in amounts that will be at least sufficient to provide for scheduled payments, when due, of the principal of and interest on the Refunding Bonds. Upon refunding of the Original Bonds, amounts payable by LP&L under the Leases will be adjusted pursuant to the terms of supplements to the Leases which supplements will be entered into at that time. In the event that the Owner Participants elects to provide an additional equity investment to pay a portion of the transaction costs incurred in issuing the Refunding Bonds or a portion of the premium on the Original Bonds, the adjustment of the amounts payable by LP&L under the Leases will reflect such additional equity investment.

The Refunding Bonds will not be direct obligations of or guaranteed by LP&L. However, under certain circumstances, LP&L might assume all or a portion of the Refunding Bonds. Each Refunding Bond will be secured by, among other things, (i) a lien on and security interest in the Undivided Interest of the Lessor that issues the Refunding Bond and (ii) certain other amounts payable by LP&L thereunder.

Instead of Refunding Bonds issued through the Owner Trustee, LP&L might arrange for a funding corporation to issue the Refunding Bonds, in which case the proceeds from the Refunding Bonds would be loaned by the funding corporation to the Lessors, which would issue notes (''Lessor Notes'') to the funding corporation to evidence the loans and secure the Refunding Bonds, and the Lessors would use the loans to redeem the Original Bonds.

The terms of the Lessor Notes and the indentures for their issuance would reflect the redemption and other terms of the Refunding Bonds. The rental payments of LP&L would be used for payments on principal and interest on the Lessor Notes, which payments would be used for payments of Refunding Bonds when due. The Refunding Bonds would be secured by the Lessor Notes, which would be secured by a lien on and security interest in the Undivided Interests and by certain rights under the Leases.

Another alternative to Refunding Bonds issued by the Owner Trustee or a funding corporation would be for LP&L to use a trust structure in which the Lessors would issue Lessor Notes to one or more passthrough trusts and the trusts would issue certificates in evidence of ownership interests in the trusts. The debt terms of the Refunding Bonds would be comparable to the terms of the Lessor Notes and the indentures for their issuance.

American Electric Power Service Corporation (70-8777)

American Electric Power Service Corporation (''AEPSC''), 1 Riverside Plaza, Columbus, Ohio 43215, a subsidiary service corporation of American Electric Power Company, Inc., a registered holding company, has filed a declaration under section 13(b) of the Act and rules 80 through 94 thereunder.

AEPSC proposes to amend (''Proposed Amendment'') Schedule A to its service agreements (''Service Agreements'') with AEP and the direct and indirect subsidiaries of AEP. The Proposed Amendment will reflect changes in the services provided by AEPSC and the related cost allocations that began on January 1, 1996 pursuant to reorganization of AEPSC and AEP's eight subsidiary electric utility companies currently served by AEPSC (AEP Generating Company, Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company ad Wheeling Power Company (collectively, ''Electric Utility Companies'')).

AEPSC and the Electric Utility Companies began to realign their organizations of January 1, 1996 to create four functional business units: (1) Power Generation; (2) Energy Transmission and Distribution; (3) Nuclear Generation; and (4) Corporate Development. No new entities will be formed and no utility assets will be transferred. Some management, engineering, maintenance and a variety of administrative and support services previously performed by the Electric Utility Companies are being rendered by AEPSC after the realignment.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–2055 Filed 1–31–96; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Prehearings Conducted by Adjudication Officers; Testing of New Procedures

AGENCY: Social Security Administration.

ACTION: Notice of the test sites and the duration of tests involving prehearing procedures and decisions by Adjudication Officers.

SUMMARY: The Social Security Administration (SSA) is announcing the locations and the duration of additional tests it will conduct under the final rules published in the Federal Register on September 13, 1995 (60 FR 47469). These final rules authorize the testing of procedures to be conducted by an adjudication officer, who, under the *Plan for a New Disability Claim Process* published in the Federal Register on September 19, 1994 (59 FR 47887), would be the focal point for all prehearing activities. Under the final rules, when a request for a hearing before an administrative law judge is requested, the adjudication officer will conduct prehearing procedures and, if appropriate, issue a decision wholly favorable to the claimant.

FOR FURTHER INFORMATION CONTACT: Mary Glenn-Croft, Appeals Team Leader, Disability Process Redesign Team, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, 410–966–8331.

SUPPLEMENTARY INFORMATION: On November 1, 1995, we announced in the Federal Register our intent to begin tests on or about November 1, 1995 of the procedures to be conducted by an adjudication officer (60 FR 55642). At that time we identified nine test sites; all of the test sites listed in that notice were in State Agencies which make disability determinations for us. We are now planning additional tests of the adjudication officer procedures and at this time we are announcing an additional 17 test sites. All of these additional test sites are offices of the Social Security Administration. We plan to begin these tests on or about February 1, 1996. We will continue these tests for approximately 12 months. The sites selected present a mix of geographic areas and case loads. We expect that these tests, together with the tests already being conducted in State Agencies, will provide us with sufficient information to determine the effect of the adjudication officer position on the administrative review process. We will publish another notice in the Federal Register if we extend the duration of any of the tests or expand further the number of test sites. The tests discussed in this notice will be conducted at the following seventeen Social Security Administration locations:

- SSA, Office of Hearings and Appeals, 555 Main Street, Suite 900, Norfolk, VA 23510
- SSA, District Office, 2600 Wilshire Blvd, Los Angeles, CA 90057
- SSA, District Office, 500 Gene Reed Road, Suite 218, Birmingham, AL 35215
- SSA, District Office, 8585 W 14th Ave, Lakewood, CO 80215
- SSA, Office of Hearings and Appeals, American Financial Center, Building #1 Suite 300, 2400 Louisiana NE, Albuquerque, NM 87110
- SSA, Office of Hearings and Appeals, 1642 Kentucky Ave, Paducah, KY 42001
- SSA, District Office, 401 South State Street, Suite 800, Chicago, IL 60605
- SSA, District Office, 200 North High Street, Rm 225, Columbus, OH 43215
- SSA, Office of Hearings and Appeals, 1001 Office Park Rd, Suite 305, West Des Moines, IA 50265
- SSA, District Office, 380 Westminster Mall, Room 318, Providence, RI 02903
- SSA, District Office, 30 Quaker Lane, 1st floor, Warwick, RI 02886
- SSA, Western Payment Service Center, 1221 Nevin Ave, Richmond, CA 94801
- SSA, Office of Hearings and Appeals, 26 Federal Plaza Room 3954, New York, NY 10278
- SSA, Office of Hearings and Appeals, Federal Building Room 3–B, 300 West Congress St, Tucson, AZ 85701
- SSA, San Patricio Branch Office, Rexam BLDG 7th floor, 1510 Roosevelt Avenue, Guaynabo, PR 00968
- SSA, Office of Hearings and Appeals, Suite 300, 1500 Valley River Drive, Eugene, OR 97401
- SSA, Office of Disability and International Operations (ODIO), 3–B–21 Tower, 1500 Security Drive, Baltimore, MD 21241

Not all hearing requests received in the test sites listed above will be handled under the test procedures. However, if a request for a hearing is selected to be handled by an adjudication officer as part of the test, the claim will be processed under the procedures established under the final regulations cited above. We currently plan to conduct these alone; they will not be conducted in combination with one or more of the tests we plan to conduct pursuant to the final rules ''Testing Modifications to the Disability Determination Procedures'' published in the Federal Register on April 24, 1995 (60 FR 20023). However, if we test the use of the adjudication officer in combination with the provisions of the final rules on ''Testing Modifications to the Disability Determination Procedures,'' we will publish the locations and dates of the tests in the Federal Register.

Dated: January 26, 1996.

Charles A. Jones,

Director, Disability Process Redesign Team.

[FR Doc. 96–2157 Filed 1–31–96; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 95–083]

Chemical Transportation Advisory Committee (CTAC); Extension of deadline regarding applications for membership on CTAC

AGENCY: Coast Guard, DOT.

ACTION: Extension of deadline for applications.

SUMMARY: In order to increase the pool of applicants, the Coast Guard is extending the deadline for applications for appointment to membership on CTAC as was initially published in [CGD 95–083] on November 15, 1995 [60 FR 57475].

DATES: Completed applications and résumés should be submitted to the Coast Guard before March 18, 1996.

ADDRESSES: Persons interested in applying for membership on CTAC may obtain an application form by writing to Commandant (G–MOS–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, or by calling the points of contact listed in the following paragraph.

FOR FURTHER INFORMATION CONTACT: Commander Kevin S. Cook, Executive Director, or Lieutenant Rick J. Raksnis, Assistant to the Executive Director, Commandant (G–MOS–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001; telephone (202) 267–1217, fax (202) 267–4570.

SUPPLEMENTARY INFORMATION: CTAC provides advice and makes recommendations to the Chief, Office of Marine Safety, Security and Environmental Protection on matters relating to the safe transportation and handling of hazardous materials in bulk on U.S. flag vessels and barges in U.S. ports and waterways. The advice and recommendations of CTAC also assist the U.S. Coast Guard in formulating U.S. positions prior to meetings of the International Maritime Organization.

The Committee meets at last once a year at U.S. Coast Guard Headquarters, Washington, DC. Special meetings may also be called. Subcommittee meetings are held to consider specific problems as required.

Applications will be considered for seven positions that expire or become vacant in June 1996. To be eligible, applicants should have experience in chemical manufacturing, marine transportation of chemicals, occupational safety and health, or environmental protection issues associated with chemical transportation. Each member serves for a term of 3 years. Members of the Committee serve at their own expense and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

In support of the U.S. Department of Transportation's policy on ethnic and gender diversity, the Coast Guard is especially seeking applications from qualified women and minority group members.

Dated: January 25, 1996.

Joseph J. Angelo,

Director for Standards, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–2150 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–14–M

[CGD 95–085]

Chemical Transportation Advisory Committee (CTAC) Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of rescheduled meeting.

SUMMARY: Due to the severe winter weather in Washington, DC, the Hazardous Substances Response Plan (HSRP) Subcommittee meeting and CTAC meeting originally scheduled for Wednesday, January 10, 1996 and Thursday, January 11, 1996, respectively, as published in [CGD 95–085] on Tuesday, November 28, 1995 [60 FR 58720] were postponed. CTAC has rescheduled its meeting to discuss various issues relating to the marine transportation of hazardous materials in bulk. The meeting is open to the public. The meeting of the HSRP Subcommittee has not been researched as of this date.

DATES: The rescheduled CTAC meeting will be held on Monday, February 26, 1996 from 10 a.m. to 3 p.m. Persons wishing to make oral presentations or provide written material during the meeting should notify the Executive Director, listed below under **ADDRESSES**, on or before February 19, 1996.

ADDRESSES: The CTAC meeting will be held in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. Written material should be sent to Commander Kevin S. Cook, Executive Director, Commandant (G–MOS–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Commander Kevin S. Cook, Executive Director, or Lieutenant Rick J. Raksnis, Assistant to the Executive Director, Commandant (G–MOS–3), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–1217, fax (202) 267–4570.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2, 1 *et seq.* The agenda for the CTAC meeting will comprise the following topics:

(1) Introduction and swearing-in of new Executive Director and new members;

(2) Progress report from the *ad hoc* 46 CFR Part 152 Subcommittee;

(3) Progress report from the HSRP Subcommittee;

(4) Presentation of task statement, and formation of the Prevention through People Subcommittee;

(5) Status Report on the Navigation and Vessel Inspection Circular (NVIC) on tank barge cleaning;

(6) Status Report on policy guidance for Marine Vapor Control Systems; and

(7) Status Report on the implementation of the International Safety Management Code, Safety of Life at Sea, Chapter IX, as amended.

Dated: January 25, 1996.

Joseph J. Angelo,

Director for Standards, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 96–2151 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–14–M

[CGD 96–003]

Towing Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Towing Safety Advisory Committee (TSAC) and its working groups will meet to discuss various issues relating to shallow-draft inland and coastal waterway navigation and towing safety. The agenda will include working group reports and discussion of various Coast guard programs such as Prevention Through People and Casualty Investigation. The meetings will be open to the public.

DATES: The working group meetings will be held on Wednesday, February 28, 1996, from 9 a.m., to 4:30 p.m. the committee meeting will be held on Thursday, February 29, 1996, from 9 a.m. to 1 p.m. Written material must be received not later than February 15, 1996.

ADDRESSES: The meetings will be held in the offices of Texaco, in the Firechief Room, at Texaco Center, 400 Poydras Street, New Orleans, LA 70130. Written material should be submitted to LTJG Patrick J. DeShon, the Assistant Executive Director, U.S. Coast Guard (G–MMS–1), 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Assistant Executive Director, LTJG Patrick J. DeShon, U.S. Coast Guard (G–MMS–1), 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–2997.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 1 *et seq.* The agenda for the Committee meeting includes the following:

Follow-up to Past Recommendations

(1) Radar training for towing vessel operators.

Work Group Reports

(1) Licensing of towing vessel operators;

(2) Prevention Through People;

(3) Distinguishing marine assistance towing;

(4) Casualty investigation;

(5) Adequacy of tug/barge navigation lights; and

(6) Revision of 46 CFR marine investigation regulations.

New Issues

(1) Offshore supply towing industry; and

(2) Adequacy of tug/barge navigation lights.

With advance notice, and at the discretion of the Chair, members of the public may present oral statements during the meeting. Persons wishing to make oral presentations should notify the person listed under **FOR FURTHER INFORMATION CONTACT** not later than February 20, 1996. Written materials may be submitted for presentation to the Committee any time; however, to ensure distribution to each Committee member, 45 copies of the written material should be submitted by February 15, 1996.

Dated: January 26, 1996.

Joseph J. Angelo,

Director for Standards, Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard.

[FR Doc. 96–2152 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

[Summary Notice No. PE–96–3]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary

is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before February 21, 1996.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: nprmcmtsmail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on January 26, 1996.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28411.

Petitioner: United Parcel Service.

Sections of the FAR Affected: 14 CFR 121.695 and 121.697.

Description of Relief Sought: To allow the pilots in command of UPS airplanes to carry, in the airplane, to its destination, a copy of the load manifest in an electronic for in lieu of a paper copy.

Dispositions of Petitions

Docket No.: 28324.

Petitioner: Cessna Aircraft Company.

Sections of the FAR Affected: 14 CFR 25.811(d)(1).

Description of Relief Sought/ Disposition: To permit exemption from the emergency exit locator sign requirements of § 25.811(d)(1) for the Cessna Model 750 airplane.

DENIAL, December 18, 1995, Exemption No. 6251.

[FR Doc. 96–2113 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–13–M

Research, Engineering and Development Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development Advisory Committee. The meeting will be held on February 14 and 15, 1996, in Rooms 9ABC at the Federal Aviation Administration, 800 Independence Ave, SW, Washington, DC 20591.

On Wednesday, February 14 the meeting will begin at 9 a.m. and end at 5 p.m. On Thursday, February 15 the meeting will begin at 8 a.m. and end at 12 noon. The meeting agenda includes several subcommittee report outs, a report of the Challenge 2000 Subcommittee, a System Architecture Briefing and a Free Flight Briefing.

Attendance is open to the interested public but limited to space available. With the approval of the committee chair, members of the public may present oral statements at the meeting. Persons wishing to attend the meeting, obtain information or present oral statements, should contact Lee Olson at the Federal Aviation Administration, AAR–200, 800 Independence Avenue, SW, Washington, DC 20591 (202) 267–7358.

Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on January 25, 1996.

Andres G. Zellweger,

Director, Aviation Research.

[FR Doc. 96–2112 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement/ Section 4(f) Evaluation: Ontonagon, Ontonagon County, MI

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement/ Section 4(f) Evaluation will be prepared for the proposed M–64 structure replacement over the Ontonagon River in Ontonagon, Ontonagon County, Michigan. Also being studied is the relocation of the M–64 alignment with up to 2.0 kilometers (1.3 miles) of new approach roadway.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Kirschensteiner, Program Operations Engineer, FHWA, 315 W. Allegan Street, Room 207, Lansing, Michigan, 48933, Telephone: (517) 377–1880; or Mr. Ronald S. Kinney, Manager, Environmental Section, Bureau of Transportation Planning, Michigan Department of Transportation, P.O. Box 30050, Lansing, Michigan, 48909, Telephone: (517) 335–2621.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Michigan Department of Transportation (MDOT), is preparing an Environmental Impact Statement (EIS) Section 4(f) Evaluation for the proposed replacement of the M–64 swing bridge over the Ontonagon River in Ontonagon, Ontonagon County, Michigan. The existing swing bridge built in 1939 is in need of major maintenance to the deck and piers. This structure has been determined to be of historical importance since it is the last swing bridge on the Michigan trunkline system. The swing bridge expands when open in hot weather and needs to be cooled down to close, thus creating motorist delays. The bridge provides a substandard opening for both navigation and water flow in the Ontonagon River. Low underclearance in combination with relatively close pier spacing and windrowed ice at the mouth of the river has also created ice jams on the upstream side of the bridge during the spring breakup. At various times this situation has caused flooding in downtown Ontonagon. There is also concern of a major ice blockage causing damage to the bridge resulting in a 130 kilometer (81 mile) detour over state highways.

Alternatives include: (1) no action, (2) rehabilitate the existing swing structure, (3) construct new moveable bridge adjacent to existing structure (Alternative A), (4) Alternatives B, B–2, C, D, and E involve constructing a fixed structure on new alignment upstream of the marina. Traffic will be maintained on the existing structure while Alternatives A, B, C, D, or E structures are being built.

Alternative A would involve constructing a bascule type lift bridge approximately 35 meters (115 feet) upstream of the existing structure. This alternative starts approximately 140 meters (460 feet) northeast of the railroad crossing on M–64, parallels the existing alignment for 0.8 kilometer (0.5 mile), and ties into River Street 35 meters (115 feet) southeast of the

existing M–64/River Street intersection. Two commercial displacements may occur with Alternative A.

Alternative B starts approximately 250 meters (820 feet) southwest of the M–64/Superior Way intersection. The alignment then travels northeasterly to cross the Ontonagon River with a 220 meter (720 foot) fixed structure upstream of the marina and ties into River Street along Copper Street. The total length of this alternative is approximately 1.6 kilometer (one mile) and may involve up to three commercial, two public, and three residential displacements.

Alternative B–2 follows a similar alignment to Alternative B with the same starting point southwest of the M–64/Superior Way intersection. The alignment then shifts to the northeast crossing the river with a 193 meter (635 foot) fixed structure upstream of Alternative B and ties into River Street along Tin Street. Alternative B–2 is approximately 1.6 kilometer (one mile) long and may involve up to one commercial and five residential displacements. The alternative will require modifications to the M–38/US–45/River Street intersection, with US–45 being relocated 84 meters (275 feet) southeast of its current location to intersect M–38 at a right angle. Alternative B–2 may displace five residential and one commercial units.

Alternative C involves combining a new M–64 structure with a new railroad bridge using the same location for the piers and abutments for both the railroad and highway bridges. Alternative C starts southwest of the M–64/Superior Way intersection and crosses the river immediately upstream of the existing railroad structure. The combination fixed bridge would be approximately 430 meters (1410 feet) long. This alignment would intersect US–45 between Lead and Gold Streets and then intersect M–38 approximately 82 meters (270) southeast of Parker Avenue. This alternative may involve up two commercial and ten residential displacements.

Alternative D starts southwest of the M–64/Superior Way intersection and crosses the river upstream of Alternative C. The fixed structure would be approximately 500 meters (1640 feet) long. Alternative D would be approximately 1.9 kilometers (1.2 miles) long. This alternative would intersect US–45 just south of Silver Street and continue east to tie into M–38 at Alsace Avenue. Alternative D may involve up to one commercial and eight residential displacements.

Alternative E also starts southwest of the M–64/Superior Way intersection and runs easterly to tie into US–45 at Mercury Street and continues easterly along the north side of Mercury Street to intersect M–38. Alternative D is approximately 1.9 kilometers (1.2 miles) long with a 350 meter (1150 foot) long fixed structure that crosses the Ontonagon River upstream of Alternative D. This alternative may involve up to ten residential displacements.

Early coordination with a number of federal, state, and local agencies has identified the more significant issues to be addressed in the EIS. A summary of the scoping process to date, identifying the alternatives being considered and the social, economic, and environmental issues involved, is being prepared. The scoping summary is expected to be available in February 1996 and will be made available to all interested agencies, organizations, and individuals on request.

A public informational meeting was held on October 12, 1995, to provide the public an opportunity to discuss the proposed action. Additional public informational meetings are anticipated. Comments on the scoping summary and the issues identified are invited from all interested parties. Requests for a copy of the scoping summary or any comments submitted should be addressed to the above contact persons. Once comments are received on the scoping summary and all potential impacts and issues are determined, a Draft EIS will be prepared to address all aspects of the different alternatives. The Draft EIS is expected to be available in late 1996 and will be available for public and agency review.

Issued on: January 24, 1996.

Norman Stoner,

Assistant Division Administrator, Lansing, Michigan.

[FR Doc. 96–2138 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–22–M

Research and Special Programs Administration

[Docket PS–146]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Research and Special Programs Administration's (RSPA) intention to request an extension for and revision to a currently approved information collection in support of the Office of Pipeline Safety (OPS) Certification and Agreement forms for the gas and hazardous liquid pipeline safety program based on re-estimates.

DATES: Comments on this notice must be received on or before April 1, 1996, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: G. Tom Fortner, Director, Compliance and State Programs, Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, S.W. Washington, D.C. 20950, (202) 366–1640.

SUPPLEMENTARY INFORMATION:

Title: Certification and Agreement forms for the gas and hazardous liquid pipeline safety program.

OMB Number: 2137–0584.

Expiration Date of Approval: March 31, 1999.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: Chapter 601, Title 49, United States Code (49 U.S.C.) authorizes DOT to regulate pipeline transportation. While DOT's Office of Pipeline Safety is primarily responsible for developing, issuing, and enforcing minimum pipeline safety regulations, Chapter 601, 49 U.S.C., provides for state assumption of all or part of the regulatory and enforcement responsibility for intrastate pipelines.

Since the initiation of this Federal/State partnership, almost every state, including Puerto Rico and the District of Columbia, participates in this program. The State agency is required to submit a certification or an agreement for the gas and/or hazardous liquid program. Under a certification, the state assumes regulatory and enforcement responsibility for intrastate pipelines. Under an agreement, a state must inspect pipeline operators to determine compliance with the minimum federal safety standards and report any probable violations to DOT's Office of Pipeline Safety, which retains responsibility for enforcement action.

This request covers the collection of information under four related instruments:

—Gas Pipeline Safety Program Certification
—Gas Pipeline Safety Program Agreement
—Hazardous Liquid Pipeline Safety Program Certification
—Hazardous Liquid Pipeline Safety Program Agreement

These instruments request information relevant to the State agency's operation of the pipeline safety program which is essential for:

(1) Confirming that the state wishes to continue its participation in the pipeline safety program;

(2) Preparing the Bi-Annual Report on Pipeline Safety due to Congress on odd numbered years as mandated in Section 1121 of Public Law 104–66;

(3) Measuring state program performance that can be used to calculate the state grant allocation; and

(4) demonstrating to Congress the value of this cooperative Federal/State pipeline safety program.

Estimate of Burden: The average burden hours per response is 60.

Respondents: State gas and hazardous liquid pipeline offices.

Estimated Number of Respondents: 61.

Estimated Number of Responses per Respondent: 1.

Copies of this information collection can be reviewed at the Dockets Unit, Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh St., S.W. Washington, D.C.

Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques. Send comments to G. Tom Fortner, Director, Compliance and State Programs, OPS, RSPA, U.S. Department of Transportation, 400 Seventh St., S.W. Washington, D.C. 20590.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also be a matter of public record.

Issued in Washington, DC on January 29, 1996.

G. Tom Fortner,

Director for Compliance and State Programs, Office of Pipeline Safety.

[FR Doc. 96–2114 Filed 1–31–96; 8:45 am]

BILLING CODE 4910–60–M

Surface Transportation Board

[Finance Docket No. 32852][1]

Russell A. Peterson; Continuance in Control Exemption; Atlantic Transportation Trust, Inc. d/b/a Jaxport Railway

Russell A. Peterson, a noncarrier, has filed a verified notice under 49 CFR 1180.2(d)(2) to continue in control of Atlantic Transportation Trust, Inc. d/b/a Jaxport Railway (JXRY), upon JXRY's becoming a class III rail carrier. JXRY, a noncarrier, has concurrently filed a notice of exemption in Finance Docket No. 32851, *Atlantic Transportation Trust, Inc., d/b/a Jaxport Railway—Lease and Operation Exemption—Lines of Jacksonville Port Authority*, in which JXRY seeks to acquire by lease and operation approximately 10.33 miles of rail line owned by Jacksonville Port Authority in Duval County, FL. The transaction was to have been consummated on January 12, 1996.

Russell A. Peterson also controls through stock ownership four other nonconnecting class III rail carriers: Allegheny Valley Railroad Company; Gulf Coast Rail Service, Inc. d/b/a Orange Port Terminal Railway; Southwest Pennsylvania Railroad; and the Camp Chase Industrial Railroad Corporation.

The transaction is exempt from the prior approval requirements of 49 U.S.C. 11343 because Russell A. Peterson states that: (1) The railroads will not connect with each other or with any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or with any railroad in their corporate family; and (3) the transaction does not involve a class I carrier.

As a condition to this exemption, any employees adversely affected by the transaction will be protected under *New York Doc Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502 [formerly section 10505(d)] may be filed at any time. The filing of a petition to reopen will not stay the exemption's effectiveness. An original and 10 copies of all pleadings, referring to Finance Docket No. 32852, must be filed with the Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Keith G. O'Brien, Rea, Cross & Auchincloss, 1920 N Street, NW, Suite 420, Washington, DC 20026.

Decided: January 26, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–2078 Filed 1–31–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 11323. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former sections of the statute, unless otherwise indicated.

Surface Transportation Board[1]

[Finance Docket No. 32851]

Atlantic Transportation Trust, Inc., d/b/a Jaxport Railway; Lease and Operation Exemption; Lines of Jacksonville Port Authority

Atlantic Transportation Trust, Inc., d/b/a Jaxport Railway (JXRY), a noncarrier, has filed a verified notice under 49 CFR Part 1150, Subpart D—*Exempt Transactions* to acquire by lease and operate approximately 10.33 miles of rail line owned by the Jacksonville Port Authority (JPA), previously known as the ''Municipal Docks Terminal Railway'' (MDT), which consists of: (a) Lead from MP MDT 0.00 to MP MDT 0.94; and (b) Tallyrand Marine Terminal trackage from MP MDT 0.94 to MP MDT 10.33, in Duval County, FL. The transaction was to have been consummated on January 12, 1996.

[1] The ICC Termination Act of 1995, Pub. L. 104–88, 109 Stat. 803 (the Act), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) and transferred certain functions and proceedings to the Surface Transportation Board (Board). Section 204(b)(1) of the Act provides, in general, that proceedings pending before the ICC on the effective date of that legislation shall be decided under the law in effect prior to January 1, 1996, insofar as they involve functions retained by the Act. This notice relates to a proceeding that was pending with the ICC prior to January 1, 1996, and to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901. Therefore, this notice applies the law in effect prior to the Act, and citations are to the former *sections* of the statute, unless otherwise indicated.

This proceeding is related to *Russell A. Peterson—Continuance in Control Exemption—Atlantic Transportation Trust, Inc. d/b/a Jaxport Railway*, Finance Docket No. 32852, wherein Russell A. Peterson has concurrently filed a verified notice to continue to control Atlantic Transportation Trust, Inc., d/b/a Jaxport Railway upon its becoming a rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) [formerly section 10505(d)] may be filed at any time. The filing of a petition to reopen will not stay the exemption's effectiveness. An original and 10 copies of all pleadings, referring to Finance Docket No. 32851, must be filed with the Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, NW., Washington, DC 20423. In addition, a copy of each pleading must be served on Keith G. O'Brien, Rea, Cross & Auchincloss, 1920 N Street, NW., Suite 420, Washington, DC 20026.

Decided: January 26, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–2079 Filed 1–31–96; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Country of Origin Marking Requirements for Wearing Apparel

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed change of practice; extension of comment period.

SUMMARY: On November 16, 1995, Customs published in the Federal Register a document proposing to change the practice regarding the country of origin marking of wearing apparel. Comments were to be received on or before January 16, 1996. This document extends for an additional 60 days the period of time within which interested members of the public may submit comments on the proposed change of practice.

DATES: Comments must be received on or before March 15, 1996.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, N.W., Suite 4000, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Monika Rice, Special Classification and Marking Branch, Office of Regulations and Rulings, (202) 482–6980.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1995, Customs published a document in the Federal Register (60 FR 57621) proposing to change the practice regarding the country of origin marking of wearing apparel. Customs previously has ruled that wearing apparel, such as shirts, blouses, coats, sweaters, etc., must be marked with the name of the country of origin by means of a fabric label or label made from natural or synthetic film sewn or otherwise permanently affixed on the inside center of the neck midway between the shoulder seams or in that immediate area or otherwise permanently marked in that area in some other manner. Buttons tags, string tags and other hand tags, paper labels and other similar methods of marking are not acceptable. In the November 16 Federal Register document Customs proposed to change this practice. Customs proposed to evaluate the marking of such wearing apparel on a case-by-case basis in order to determine whether the requirements of the marking statute, 19 U.S.C. 1304, are satisfied.

The comment period for this proposed change of practice expired on January 16, 1996. However, Customs has received requests from interested parties to extend the period of time for comments in order to afford the parties additional time to prepare responsive comments. Customs believes that it is appropriate to grant the request. Accordingly, the period of time for the submission of comments is extended another 60 days. With the extension, comments must be received on or before March 15, 1996.

Dated: January 26, 1996.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 96–2062 Filed 1–31–96; 8:45 am]

BILLING CODE 4820–02–P

Internal Revenue Service

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing final regulation, PS–7–90, Nuclear Decommissioning Fund Qualification Requirements.

DATES: Written comments should be received on or before April 1, 1996, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Nuclear Decommissioning Fund Qualification Requirements.

OMB Number: 1545–1269.

Regulation Project Number: PS–7–90 Final.

Abstract: If a taxpayer requests, in connection with a request for a schedule of ruling amounts, a ruling as to the classification of certain unincorporated organizations, the taxpayer is required to submit a copy of the documents establishing or governing the organization.

Current Actions: There is no change to the collection of information in this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: The estimated annual burden per respondent varies from 2 hours to 4 hours, depending on individual circumstances, with an estimated average of 3 hours.

Estimated Total Annual Burden Hours: 150.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: January 22, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–1965 Filed 1–31–96; 8:45 am]

BILLING CODE 4830–01–U

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing regulation, LR–115–72, Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes; Reporting and Recordkeeping Requirements.

DATES: Written comments should be received on or before April 1, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes; Reporting and Recordkeeping Requirements.

OMB Number: 1545–0723.

Regulation Project Number: LR–115–72, Final.

Abstract: Chapters 31 and 32 of the Internal Revenue Code impose excise taxes on the sale or use of certain articles. Section 6416 allows a credit or refund of the tax to manufacturers in certain cases. Section 6420, 6421, and 6427 allow credits or refunds of the tax to certain users of the articles.

Current Actions: There is no change to the collection of information in this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: All taxpayers.

Estimated Number of Respondents: 1,500,000

Estimated Time per Respondent: 19 minutes.

Estimated Total Annual Burden Hours: 475,000.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: January 23, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–1967 Filed 1–31–96; 8:45 am]

BILLING CODE 4830–01–U

Agency Information Collection Activities; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning an existing final regulation, CO–49–88, Limitations on Corporate Net Operating Loss.

DATES: Written comments should be received on or before April 1, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Limitations on Corporate Net Operating Loss

OMB Number: 1545–1381.

Regulation Project Number: CO–49–88 Final.

Abstract: This regulation provides rules for the allocation of a loss corporation's taxable income or net operating loss between the periods before and after an ownership change under section 382 of the Code, including an election to make the allocation based on a closing of the books as of the change date.

Current Actions: There is no change to the collection of information in this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 200.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Approved: January 23, 1996.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 96–1968 Filed 1–31–96; 8:45 am]

BILLING CODE 4830–01–U

Office of the Comptroller of the Currency

Information Collection Submitted to OMB for Review

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of information collection submitted to OMB for review and

approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995, the Office of the Comptroller of the Currency (OCC) hereby gives notice that it has sent to the Office of Management and Budget (OMB) a Paperwork Reduction Act Submission regarding an information collection titled Release of Non-Public Information (12 CFR part 4).

DATES: Comments on this information collection are welcome and should be submitted by March 4, 1996.

ADDRESSES: A copy of the submission may be obtained by calling or writing the OCC contact.

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the OCC has sent to OMB a Paperwork Reduction Act Submission regarding the following information collection:

Type of Review: Regular.

Title: Release of Non-Public Information (12 CFR part 4).

Description: The information collection is required to protect non-public OCC information from unnecessary disclosure in order to ensure that national banks and the OCC engage in a candid dialogue during the bank examination process. The collection of information requires individuals who are requesting non-public OCC information to provide the OCC with information regarding the requester's legal grounds for the request. Inappropriate release of information would inhibit open consultation between a bank and the OCC.

Form Number: None.

OMB Number: 1557–0200.

Respondents: Businesses or other for-profit.

Number of Respondents: 180.

Total Annual Responses: 505.

Frequency of Response: On occasion.

Total Annual Burden Hours: 894.

OMB Reviewer: Milo Sunderhauf, (202) 395–7340, Paperwork Reduction Project 1557–0200, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

OCC Contact: John Ference or Jessie Gates, (202) 874–5090, Legislative and Regulatory Activities Division (1557–0200), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

Comments: Comments regarding the submission should be addressed to both the OMB reviewer and the OCC contact listed above.

Dated: January 25, 1996.

Nancy P. Michaleski,

Assistant Director, Legislative & Regulatory Activities Division.

[FR Doc. 96–2051 Filed 1–31–96; 8:45 am]

BILLING CODE 4810–33–P

Sunshine Act Meetings

Federal Register
Vol. 61, No. 22
Thursday, February 1, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, February 6, 1996 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Wednesday, February 7, 1996 at 10:00 a.m.

PLACE: 999 E Street, N.W. Washington, D.C. (Ninth Floor.)

STATUS: This meeting will be open to the public.

ITEM BEFORE THE COMMISSION:

Oral Presentation—Lenora B. Fulani for President.

DATE AND TIME: Thursday, February 8, 1996 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor.)

STATUS: This meeting will be open to the public.

ITEM TO BE DISCUSSED:

Correction and Approval of Minutes.
Title 26 Certificate Matters.
Advisory Opinion 1995–47: Congressman Robert A. Underwood.
Regulations Status Report.
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 96–2274 Filed 1–30–96; 3:13 pm]

BILLING CODE 6715–01–M

COMMITTEE ON EMPLOYEE BENEFITS OF THE FEDERAL RESERVE SYSTEM*

COMMITTEE ON EMPLOYEE BENEFITS OF THE FEDERAL RESERVE SYSTEM*

TIME AND DATE: 2:00 p.m., Tuesday, February 6, 1996.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed operations review.
2. Any items carried forward from a previously announced meeting.

* The Committee on Employee Benefits considers matters relating to the Retirement, Thrift, Long-Term Disability Income, and Insurance Plans for Employees of the Federal Reserve System.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 30, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–2207 Filed 1–30–96; 11:58 am]

BILLING CODE 6210–01–P

INTER-AMERICAN FOUNDATION BOARD MEETING

TIME AND DATE: February 13, 1996, 11:30 a.m.–2:00 p.m.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

STATUS: Open session.

MATTERS TO BE CONSIDERED:

1. Approval of the Minutes of the November 15, 1995, Meeting of the Board of Directors.
2. President's Report.
3. Discussion on Future Course for the Foundation.

CONTACT PERSON FOR MORE INFORMATION: Adolfo A. Franco, Secretary to the Board of Directors, (703) 841–3894.

Dated: January 30, 1996.

Adolfo A. Franco,

Sunshine Act Officer.

[FR Doc. 96–2290 Filed 1–30–96; 3:56 pm]

BILLING CODE 7025–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following open meeting during the week of February 5, 1996.

An open meeting will be held on Monday, February 5, 1996, at 11:30 a.m., in Room 1C30.

The subject matter of the open meeting scheduled for Monday, February 5, 1996, at 11:30 a.m., will be:

The Commission will consider releasing the staff report of the Task Force on Disclosure Simplification. This report will contain a number of recommendations designed to simplify, streamline, and modernize the rules and forms addressing corporation finance. The Task Force, composed of Commission staff members, was assisted by Philip K. Howard. For further information, contact Brian J. Lane, Counselor to the Chairman, at (202) 942–0100.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: January 30, 1996.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–2287 Filed 1–30–96; 3:52 pm]

BILLING CODE 8010–01–M

Federal Register

Thursday
February 1, 1996

Part II

Reader Aids

**Cumulative List of Public Laws—
104th Congress, First Session**

CUMULATIVE LIST OF PUBLIC LAWS

This is the cumulative list of public laws for the 104th Congress, First Session. Any comments may be addressed to the Director, Office of the Federal Register, Washington, DC 20408. The text of laws may be ordered in individual pamphlet form (referred to as ''slip laws'') from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). Some laws may not yet be available for purchase.

Public Law	Title	Approved	109 Stat.
104–1	Congressional Accountability Act of 1995	Jan. 23, 1995	3
104–2	To amend section 61h–6 of title 2, United States Code	Feb. 9, 1995	45
104–3	To amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea.	Mar. 7, 1995	47
104–4	Unfunded Mandates Reform Act of 1995	Mar. 22, 1995	48
104–5	To amend a provision of part A of title IX of the Elementary and Secondary Education Act of 1965, relating to Indian education, to provide a technical amendment, and for other purposes.	Mar. 23, 1995	72
104–6	Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995.	Apr. 10, 1995	73
104–7	To amend the Internal Revenue Code of 1986 to permanently extend the deduction for the health insurance costs of self-employed individuals, to repeal the provision permitting nonrecognition of gain on sales and exchanges effectuating policies of the Federal Communications Commission, and for other purposes.	Apr. 11, 1995	93
104–8	District of Columbia Financial Responsibility and Management Assistance Act of 1995	Apr. 17, 1995	97
104–9	CFTC Reauthorization Act of 1995	Apr. 21, 1995	154
104–10	To amend the Alaska Native Claims Settlement Act to provide for the purchase of common stock of Cook Inlet Region, and for other purposes.	May 18, 1995	155
104–11	Chacoan Outliers Protection Act of 1995	May 18, 1995	158
104–12	Truth in Lending Class Action Relief Act of 1995	May 18, 1995	161
104–13	Paperwork Reduction Act of 1995	May 22, 1995	163
104–14	To provide that references in the statutes of the United States to any committee or officer of the House of Representatives the name or jurisdiction of which was changed as part of the reorganization of the House of Representatives at the beginning of the One Hundred Fourth Congress shall be treated as referring to the currently applicable committee or officer of the House of Representatives.	June 3, 1995	186
104–15	To reauthorize appropriations for the Navajo-Hopi Relocation Housing Program	June 21, 1995	189
104–16	To reauthorize appropriations for certain programs under the Indian Child Protection and Family Violence Prevention Act, and for other purposes.	June 21, 1995	190
104–17	To extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.	July 2, 1995	191
104–18	To amend the Omnibus Budget Reconciliation Act of 1990 to permit medicare select policies to be offered in all States.	July 7, 1995	192
104–19	Emergency Supplemental Appropriations for Additional Disaster Assistance, for Anti-terrorism Initiatives, for Assistance in the Recovery from the Tragedy that Occurred at Oklahoma City, and Rescissions Act, 1995.	July 27, 1995	194
104–20	To amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner, and for other purposes.	July 28, 1995	255
104–21	District of Columbia Emergency Highway Relief Act	Aug. 4, 1995	257
104–22	To extend authorities under the Middle East Peace Facilitation Act of 1994 until October 1, 1995, and for other purposes.	Aug. 14, 1995	260
104–23	Corning National Fish Hatchery Conveyance Act	Sept. 6, 1995	261
104–24	To direct the Secretary of the Interior to convey a fish hatchery to the State of Iowa	Sept. 6, 1995	262
104–25	To direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility.	Sept. 6, 1995	263
104–26	Court Reporter Fair Labor Amendments of 1995	Sept. 6, 1995	264
104–27	To designate the United States Post Office building located at 33 College Avenue in Waterville, Maine, as the ''George J. Mitchell Post Office Building''.	Sept. 6, 1995	266
104–28	District of Columbia Convention Center and Sports Arena Authorization Act of 1995	Sept. 6, 1995	267
104–29	Truth in Lending Act Amendments of 1995	Sept. 30, 1995	271
104–30	To extend authorities under the Middle East Peace Facilitation Act of 1994 until November 1, 1995, and for other purposes.	Sept. 30, 1995	277
104–31	Making continuing appropriations for the fiscal year 1996, and for other purposes	Sept. 30, 1995	278
104–32	Military Construction Appropriations Act, 1996	Oct. 3, 1995	283
104–33	To make the reporting deadlines for studies conducted in Federal court demonstration districts consistent with the deadlines for pilot districts, and for other purposes.	Oct. 3, 1995	292
104–34	To clarify the rules governing venue, and for other purposes	Oct. 3, 1995	293
104–35	To amend part D of title IV of the Social Security Act to extend for 2 years the deadline by which States are required to have in effect an automated data processing and information retrieval system for use in the administration of State plans for child and spousal support.	Oct. 12, 1995	294
104–36	Small Business Lending Enhancement Act of 1995	Oct. 12, 1995	295
104–37	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1996.	Oct. 21, 1995	299
104–38	To disapprove of amendments to the Federal Sentencing Guidelines relating to lowering of crack sentences and sentences for money laundering and transactions in property derived from unlawful activity.	Oct. 30, 1995	334
104–39	Digital Performance Right in Sound Recordings Act of 1995	Nov. 1, 1995	336
104–40	To authorize the collection of fees for expenses for triploid grass carp certification inspections, and for other purposes.	Nov. 1, 1995	350
104–41	To amend title 35, United States Code, with respect to patents on biotechnological processes	Nov. 1, 1995	351
104–42	To amend the Alaska Native Claims Settlement Act, and for other purposes	Nov. 2, 1995	353
104–43	Fisheries Act of 1995	Nov. 3, 1995	366
104–44	To designate the United States Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, Colorado, as the ''Winfield Scott Stratton Post Office''.	Nov. 3, 1995	397

Public Law	Title	Approved	109 Stat.
104–45	Jerusalem Embassy Act of 1995	Nov. 8, 1995	398
104–46	Energy and Water Development Appropriations Act, 1996	Nov. 13, 1995	402
104–47	To extend authorities under the Middle East Peace Facilitation Act of 1994 until December 31, 1995, and for other purposes.	Nov. 13, 1995	423
104–48	Perishable Agricultural Commodities Act Amendments of 1995	Nov. 15, 1995	424
104–49	Respecting the relationship between workers' compensation benefits and the benefits available under the Migrant and Seasonal Agricultural Worker Protection Act.	Nov. 15, 1995	432
104–50	Department of Transportation and Related Agencies Appropriations Act, 1996	Nov. 15, 1995	436
104–51	To amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.	Nov. 15, 1995	467
104–52	Treasury, Postal Service, and General Government Appropriations Act, 1996	Nov. 19, 1995	468
104–53	Legislative Branch Appropriations Act, 1996	Nov. 19, 1995	514
104–54	Making further continuing appropriations for the fiscal year 1996, and for other purposes	Nov. 19, 1995	540
104–55	Edible Oil Regulatory Reform Act	Nov. 20, 1995	546
104–56	Making further continuing appropriations for the fiscal year 1996, and for other purposes	Nov. 20, 1995	548
104–57	Veterans' Compensation Cost-of-Living Adjustment Act of 1995	Nov. 22, 1995	555
104–58	To authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes.	Nov. 28, 1995	557
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104–68	To designate the Federal Triangle project under construction at 14th Street and Pennsylvania Avenue, Northwest, in the District of Columbia, as the ''Ronald Reagan Building and International Trade Center''.	Dec. 22, 1995	766
104–69	Making further continuing appropriations for the fiscal year 1996, and for other purposes	Dec. 22, 1995	767
104–70	To amend the Clean Air Act to provide for an optional provision for the reduction of work-related vehicle trips and miles travelled in ozone nonattainment areas designated as severe, and for other purposes.	Dec. 23, 1995	773
104–71	Sex Crimes Against Children Prevention Act of 1995	Dec. 23, 1995	774
104–72	To extend au pair programs	Dec. 23, 1995	776
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104–74	To amend the Doug Barnard, Jr.—1996 Atlanta Centennial Olympic Games Commemorative Coin Act, and for other purposes.	Dec. 26, 1995	784
104–75	To designate the United States courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, Nevada, as the ''Bruce R. Thompson United States Courthouse and Federal Building''.	Dec. 28, 1995	786
104–76	Housing for Older Persons Act of 1995	Dec. 28, 1995	787
104–77	To designate the Federal building located at 600 Martin Luther King, Jr. Place in Louisville, Kentucky, as the ''Romano L. Mazzoli Federal Building''.	Dec. 28, 1995	789
104–78	To rename the San Francisco Bay National Wildlife Refuge as the Don Edwards San Francisco Bay National Wildlife Refuge.	Dec. 28, 1995	790
104–79	To amend the Federal Election Campaign Act of 1971 to improve the electoral process by permitting electronic filing and preservation of Federal Election Commission reports, and for other purposes.	Dec. 28, 1995	791
104–80	To designate the United States courthouse located at 800 Market Street in Knoxville, Tennessee, as the ''Howard H. Baker, Jr. United States Courthouse''.	Dec. 28, 1995	794
104–81	Providing for the reappointment of Homer Alfred Neal as a citizen regent of the Board of Regents of the Smithsonian Institution.	Dec. 28, 1995	795
104–82	Providing for the appointment of Howard H. Baker, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution.	Dec. 28, 1995	796
104–83	Providing for the appointment of Anne D'Harnoncourt as a citizen regent of the Board of Regents of the Smithsonian Institution.	Dec. 28, 1995	797
104–84	Providing for the appointment of Louis Gerstner as a citizen regent of the Board of Regents of the Smithsonian Institution.	Dec. 28, 1995	798
104–85	To designate the Federal Courthouse in Decatur, Alabama, as the ''Seybourn H. Lynne Federal Courthouse'', and for other purposes.	Dec. 28, 1995	799
104–86	To designate the United States Courthouse for the Eastern District of Virginia in Alexandria, Virginia, as the Albert V. Bryan United States Courthouse.	Dec. 28, 1995	800
104–87	To extend for 4 years the period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under Dayton Area Health Plan.	Dec. 29, 1995	802
104–88	ICC Termination Act of 1995	Dec. 29, 1995	803
104–89*	To extend authorities under the Middle East Peace Facilitation Act of 1994 until March 31, 1996, and for other purposes.	Jan. 4, 1996	960
104–93*	Intelligence Authorization Act for Fiscal Year 1996	Jan. 6, 1996	961
104–95	To amend title 4 of the United States Code to limit State taxation of certain pension income	Jan. 10, 1996	979
104–96	Smithsonian Institution Sesquicentennial Commemorative Coin Act of 1995	Jan. 10, 1996	981
104–97	To reauthorize the tied aid credit program of the Export-Import Bank of the United States, and to allow the Export-Import Bank to conduct a demonstration project.	Jan. 11, 1996	984
104–98	Federal Trademark Dilution Act of 1995	Jan. 16, 1996	985

*Note: Public Laws 104–90—92 and 94 will appear in the cumulative list of public laws for the 104th Congress, Second Session.

Federal Register

Thursday
February 1, 1996

Part III

Department of Education

Office of Elementary and Secondary Education

34 CFR Part 201

Title I, Part C—Education in Migratory Children; Proposed Rule

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 201

RIN 1830–ZA03

Title I, Part C—Education of Migratory Children

AGENCY: Department of Education.

ACTION: Notice of proposed criteria for consortium incentive grants in fiscal year (FY) 1996 and subsequent fiscal years, available under part C of title I of the Elementary and Secondary Education Act of 1965.

SUMMARY: Under the authority of section 1308(d) of Title I of the Elementary and Secondary Education Act (ESEA), as amended by the Improving America's Schools Act (IASA), the Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) proposes criteria for awarding Migrant Education Program (MEP) consortium incentive grants to State educational agencies (SEAs) with approved consortium arrangements.

DATES: Comments must be received on or before March 4, 1996.

ADDRESSES: All comments concerning these proposed criteria should be addressed to James English, U.S. Department of Education, 600 Independence Avenue, S.W., Portals Building, Room 4100, Washington, D.C. 20202–6135. Comments may also be sent via FAX to (202) 205–0089 or through the Internet to James_xEnglish@ed.gov.

FOR FURTHER INFORMATION CONTACT: James English. Telephone: (202) 260–1394. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

The MEP, authorized in Title I, Part C of the ESEA, is a State-operated, formula grant program under which SEAs receive funds to improve the academic achievement and welfare of migratory children who reside in their States. Consistent with the emphasis that the reauthorized ESEA places upon removing barriers to cross-program coordination and integration of programs that serve migratory children, sections 1303(d) and 1308(d) of the ESEA encourage SEAs to consider whether consortium arrangements with other States or appropriate entities would result in a more effective and efficient delivery of MEP services.

In this regard, section 1303(d) directs the Secretary to consult with States whose MEP allocations in any year will be $1 million or less about the desirability of forming consortia. This section also directs the Secretary to approve any State's consortium proposal that (1) reduces MEP administrative costs or program function costs, and (2) increases the amount of MEP funds that are made available for direct services to migratory children that add substantially to the educational attainment or welfare of those children. While an SEA may form a consortium arrangement with any appropriate entity, the Secretary, in light of the strong interstate emphases in the MEP, encourages SEAs to establish multi-State consortium arrangements.

To encourage States to form consortium arrangements that meet the requirements of section 1303(d), section 1308(d) of the ESEA directs the Secretary to reserve up to $1.5 million of the funds appropriated for the MEP for competitive incentive awards to SEAs with consortium arrangements approved by the Secretary. Section 1308(d) also limits the size of each of these grants to not more than $250,000, and provides that not fewer than 10 grants be made to eligible SEAs with approved consortium arrangements whose MEP allocations are less than $1 million. While the provision offers all States an incentive to participate in consortium arrangements, it was enacted particularly to benefit those States that, because of the small size of their MEP allocations, may have particular difficulty in both administering the MEP and providing direct services to migratory children.

Last year, for FY 1995, the Department exercised its authority under section 437(d)(1) of the General Education Provisions Act (GEPA) to waive public comment on the criteria and process for first-year implementation of the consortium incentive grant program. The notice of final criteria for the FY 1995 grants was published in the Federal Register on March 30, 1995. FY 1995 awards went to 15 SEAs participating in five approved consortium arrangements.

Based on the Department's experience with the FY 1995 grants and subsequent discussions with staff from SEAs that applied or considered applying last year, the Secretary proposes to continue using the same criteria and process, as follows, in order to award the consortium incentive grants authorized under section 1308(d) of the ESEA in FY 1996 and subsequent fiscal years:

Eligibility for Consortium Incentive Grants

The Secretary will reserve $1.5 million to implement this consortium incentive grant program in FY 1996. For subsequent fiscal years, the Secretary shall announce, in the Federal Register, the amount of funds that will be available under this grant authority.

The Secretary will use a variety of methods, including meetings and telephone calls, to discuss with SEA officials in States receiving MEP allocations of less than $1 million, the circumstances in which consortium arrangements might enhance their programs for migratory children.

Consistent with section 1303(d), a consortium arrangement will be approved if it (1) reduces the overall amount of MEP administrative or program function costs across the participating SEAs from the amount that would be incurred in the absence of the consortium, and (2) makes more funds available, in total across the participating SEAs, for direct educational or support services to migratory children, so as to add substantially to their welfare or educational attainment than would have been available in the absence of the consortium.

For purposes of section 1303(d), ''administrative or program function costs'' include all costs that an SEA or its local operating agencies pay from MEP funds to support MEP activities other than direct educational or support services for migratory children. Administrative and program function costs would include the costs of general program administration paid from funds reserved under section 1603(c) of ESEA, as well as the costs of other, program-specific administrative activities, such as identification and recruitment, interstate, intrastate, and interagency coordination, and parent advisory councils. The term ''direct educational or support services'' means any instructional or support activities provided directly to migratory children, as well as training of instructional or support staff who provide instructional or support services directly to migratory children. For purposes of section 1303(d), the term ''other appropriate entity'' can mean any public or private agency or organization.

A single SEA may be part of more than one consortium arrangement. However, consistent with section 1303(d) of the ESEA, each consortium arrangement that the Secretary approves must separately decrease the amount of

MEP administrative or program function costs in total for the participating SEAs and, conversely, increase the amount of MEP funds available for direct services to migratory children in total for the participating SEAs. An SEA will submit the information that the Department needs to review and approve the SEA's consortium arrangement, and determine the size of the SEA's consortium incentive grant, through its MEP-specific application or in conjunction with the optional consolidated State plan under section 14302 of the ESEA.

Amount of Incentive Grants

Each SEA with one or more consortium arrangements that the Secretary determines meet the criteria in section 1303(d) of the ESEA, *and* whose consortium arrangements increase the amount of MEP funds available for direct services to migratory children in *its* State, will receive one incentive award. In determining the size of an SEA's award, the Secretary will rank SEAs seeking incentive grants on the basis of the *total* percentage increase in MEP funds that the SEA will make available for direct services to migratory children in *its* State as a result of the SEA's participation in the consortium arrangements, as compared to the level of direct services that would be made available to migratory children in the State in the absence of the consortia.

Example I: SEA A has one consortium arrangement that increases the amount of funds available for direct services in State A by 10 percent, while SEA B has two consortium arrangements that increase the total amount of funds available for direct services in State B by 8 percent. SEA A would be ranked higher than SEA B even if SEA B's consortium arrangements permit more total funds to be used for direct services.

Example II: SEA C and SEA D participate together in one consortium and this consortium is the only one in which each SEA participates. If the amount available for direct services increases in total across the two States due to participation in the consortium, but the amount available for direct services in State C does not increase, the consortium arrangement will be approved, but only State D, and not State C, will receive an incentive grant.

From the information that an SEA submits, the Department will calculate, for each State, the total percentage increase in MEP funds available for direct services as a result of all the approved consortium arrangements in which the applicant SEA participates. The Department will then rank these percentages in descending order and divide the distribution into thirds (that is, into terciles). Each SEA ranked in the highest third of the distribution will receive an incentive grant that is three times the size of the grant received by each SEA ranked in the lowest third, while each SEA ranked in the middle third will receive an incentive grant that is twice the size of that provided to each SEA ranked in the lowest third. Within each third, grant awards will be of equal size, except that adjustments will be made so that no consortium incentive grant will be greater than $250,000 or 100 percent of the amount of funds awarded to the SEA under its formula grant allocation, whichever is less.

An SEA may use incentive grant funds awarded under section 1308(d) of the ESEA only to provide direct services to migratory children. These funds are in addition to, and not in place of, the funds awarded under the MEP formula grant.

The Secretary implements section 1308(d) in this way in order to (1) reward all SEAs whose participation in consortium arrangements increases direct services to migratory children in their State, (2) provide larger awards to those SEAs whose consortium arrangements most enhance their capacity to deliver direct services, and (3) ensure that funds under this program are available to SEAs as soon as possible.

Applicability of the Education Department General Administrative Regulations (EDGAR)

In view of the process that the Department proposes to use to obtain information on proposed SEA consortium arrangements, and the criteria it proposes to use to determine, by formula, the amount of consortium incentive grant that each applicant SEA will receive, the regulations in 34 CFR Part 75 (Direct Grant Programs of the Education Department General Administrative Regulations (EDGAR)) do not apply. Instead, the consortium incentive grant program will be administered, like the MEP itself, under the provisions of 34 CFR Parts 76, 77, 79, 80, and 85 of EDGAR.

Paperwork Reduction Act of 1995

These proposed criteria have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Intergovernmental Review

The MEP is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with this order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed criteria. The Secretary is particularly interested in views from applicants for and recipients of FY 1995 consortium incentive grant awards.

All comments submitted in response to these proposed criteria will be available for public inspection, during and after the comment period, in Room 4100, 1250 Maryland Avenue, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

(Program Authority: 20 U.S.C. 6393(d), 6398(d))

(Catalog of Federal Domestic Assistance Number: 84.011, Migratory Education Basic State Formula Grant Program)

Dated: January 24, 1996.

Gerald N. Tirozzi,

Acting Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 96–2015 Filed 1–31–96; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Thursday
February 1, 1996

Part IV

Department of Education

34 CFR Parts 668 and 690

Student Assistance General Provisions and Federal Pell Grant Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 668 and 690

Student Assistance General Provisions and Federal Pell Grant Program

AGENCY: Department of Education.

ACTION: Final regulations; correction.

SUMMARY: This document corrects errors in the Student Assistance General Provisions and the Federal Pell Grant Program regulations published in the Federal Register on December 1, 1995.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Rachael Sternberg, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3053, ROB–3, Washington, D.C. 20202. Telephone (202) 708–7888. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On December 1, 1995, final regulations were published in the Federal Register (60 FR 61796) as part of the Secretary's response to the President's March 4, 1995 Regulatory Reform Initiative. This document corrects errors in the text of the amendments to sections 668.37, 668.164, 668.165, and 690.83.

Dated: January 29, 1996.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

The following corrections are made in FR Doc. 95–29180 published on December 1, 1995 (60 FR 61796):

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

§ 668.37 [Corrected]

1. On page 61812, column 3, § 668.37 is corrected by removing ''and/'' in paragraph (a)(2)(iii).

2. On page 61814, column 1, amendment 11 to § 668.164 did not reflect prior amendments to paragraph (a), which are repeated here for the convenience of the public. In order to correctly incorporate amendment 11, § 668.164 is corrected by revising paragraph (a) to read as follows:

§ 668.164 Maintaining funds.

* * * * *

(a) *General.* (1) The requirements in this section apply only to title IV, HEA program funds an institution receives under the campus-based, Direct Loan, and Federal Pell Grant programs. An institution that receives FFEL program funds through electronic funds transfer or by master check must maintain those funds as provided under 34 CFR 682.207(b).

(2)(i) Except as provided in paragraph (e) of this section, an institution is not required to maintain a separate account for funds an institution receives under the campus-based, Direct Loan, and Federal Pell Grant programs, but must maintain these funds in a bank account that meets the requirements of this paragraph and under paragraph (b) or (c) of this section. An institution must—

(ii) Ensure that the name of the account includes the phrase ''Federal Funds'' to clearly identify that title IV, HEA program funds are maintained in that account; or

(iii)(A) Notify the bank of the accounts that contain Federal funds and retain a record of that notice in its recordkeeping system; and

(B) Except for public institutions, file with the appropriate State or municipal government entity a UCC–1 statement disclosing that the account contains Federal funds and maintain a copy of that statement in its records.

* * * * *

§ 668.165 [Corrected]

3. On page 61814, column 1, amendment 12 to § 668.165 is corrected by redesignating paragraphs (e)(3) as (e)(3)(i) and (e)(4) as (e)(3)(ii).

PART 690—FEDERAL PELL GRANT PROGRAM

§ 690.83 [Corrected]

4. On page 61816, column 2, amendment 47 to § 690.83 is corrected by adding '', and removing paragraph (e)'' after ''(d)''in the amendatory language.

[FR Doc. 96–2155 Filed 1–31–96; 8:45 am]

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FEDERAL REGISTER PAGES AND DATES, FEBRUARY

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The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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  - Used class I controlled substances import; reporting requirement partial stay and reconsideration; published 1-31-96

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- 1-[[2-(2,4-Dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole; published 1-31-96

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- National oil and hazardous substances contingency plan--
  - National priorities list update; published 1-31-96

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Federal regulatory review:
- Small business investment companies; published 1-31-96

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- Commandant, United States Coast Guard; published 1-31-96

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- Unescorted access privileges; employment investigations and criminal history record checks Correction; published 11-2-95

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- Beech; published 1-19-96

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- Rotorcraft; normal and transport category--
  - Turbine engine rotor burst protection; published 11-2-95

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- Foreign markets for agricultural commodities; development agreements; comments due by 2-9-96; published 1-10-96

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  - Disaster and distress situations; food assistance; comments due by 2-6-96; published 12-8-95

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- Cable television services; definitions for purposes of cable television must-carry rules; comments due by 2-5-96; published 1-24-96

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- Foreign banks home state selection under Interstate Act; comments due by 2-5-96; published 12-28-95

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- Additional supplier standards; comments due by 2-9-96; published 12-11-95
- Physician fee schedule (1996 CY); payment policies and relative value unit adjustments; comments due by 2-6-96; published 12-8-95
- Skilled nursing facilities and home health agencies; uniform electronic cost reporting requirements; comments due by 2-5-96; published 12-5-95

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  - Meeting; comments due by 2-5-96; published 12-13-95

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  - Income exclusions; comments due by 2-5-96; published 12-6-95

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**. A cumulative list of Public Laws for the First Session of the 104th Congress is in Part II of this issue of the **Federal Register**.

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—FEBRUARY 1996

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

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